

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

October 3, 2019

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**OLD BUSINESS - NONE**

**NEW BUSINESS**

**ORDINANCES (SINGLE READING AND ENACTMENT AS AN EMERGENCY)**

**ORDINANCE NO. O – 10 – 19 – 14**

**AN ORDINANCE APPROVING THE CONTINUED APPOINTMENT OF MARTINA M. DILLON OF THE LAW OFFICE OF MARTINA M. DILLON, ESQ. AS LAW DIRECTOR AND DECLARING AN EMERGENCY**

**WHEREAS**, Section 6.08 of the Clayton Charter provides for the appointment of a Law Director by Council and appointment of assistants and special counsel; and

**WHEREAS**, Section 3.01(D) of the Clayton Charter provides that Council may define the duties of positions of employment within the City and set rates of compensation therefore; and

**WHEREAS**, Section 4.02 of the Clayton Charter requires Council to define employment categories and pay rates by Ordinance; and

**WHEREAS**, Section 5.01 of the Clayton Charter permits Council to enter into a specific employment contract with the Law Director setting forth the terms of her engagement; and

**WHEREAS**, Martina M. Dillon has been providing services to the City as Assistant Law Director since 2006 and as Law Director since 2014, and;

**WHEREAS**, Council desires to confirm the appointment of Martina M. Dillon of The Law Office of Martina M. Dillon, Esq. as Law Director pursuant to the terms of engagement currently in effect and delineated herein and in the attached Exhibit A.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That Martina M. Dillon's (with the Law Office of Martina M. Dillon, Esq. as of September 19, 2019) appointment as Law Director is hereby continued and confirmed with service to be at the pleasure of Council.

2. That Ms. Dillon shall continue as a salaried employee of the City of Clayton at a monthly salary of \$600.00.

3. That the designation of an Assistant Law Director to serve as Acting Law Director in the event of Ms. Dillon’s temporary absence or disability will be forthcoming via additional legislation.
4. That the engagement of the Law Office of Martina M. Dillon, Esq. to serve as special counsel to the City is hereby approved on the terms set forth at Exhibit A, appended hereto and the City Manager is authorized to enter into an Engagement Letter verifying same.
5. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
6. That in accordance with Clayton Charter Section 4.031(B) the requirement that this enactment be read on two (2) separate days is dispensed with by affirmative vote of at least five (5) of the members of Council.
7. That, prompt implementation of pay rates for personnel ensure continued provision of City services, and absent immediate implementation, public health and safety and welfare will be detrimentally affected. Accordingly, in accordance with Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.

ADOPTED BY COUNCIL ON OCTOBER 3, 2019

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**ORDINANCE NO. O – 10 – 19 – 15**

**AN ORDINANCE AMENDING CLAYTON CODIFIED ORDINANCE CHAPTER 930 ENTITLED “UTILITY STRUCTURE STANDARDS” AND DECLARING AN EMERGENCY**

**WHEREAS**, it is the determination of Council that implementation of standardized utility structure standards within the City of Clayton will promote efficient and logical placement of utility structures such as to promote the public health, safety and welfare, including but not limited to, promotion and protection of real estate values; and

**WHEREAS**, it is the determination and recommendation of City staff that in order to better protect and preserve the health, safety, and welfare of the citizens of Clayton the amendments to CCO 930 (“Utility Structure Standards”) recommended below be adopted.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF CITY OF CLAYTON, STATE OF OHIO:**

1. That Chapter 930 of the Clayton Codified Ordinances and entitled "Utility Structure Standards", is hereby amended as follows with deletions in ~~strikethrough~~ and additions in **bold**:

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**TITLE THREE - Utilities**  
**Chapter 930 Utility Structure Standards**

**SECTION 930.01 DEFINITIONS**

(a) Definitions. For purposes of this Chapter, the following definitions shall apply:

1. Utility Structure: means any above ground structure, facility, or equipment, including but not limited to, pedestals, poles, boxes, cabinets, meters, storage facilities, or utility stations, which are associated with a utility providing services to its customers. Such services shall include, but are not limited to: electricity, natural gas, telecommunications, cable, video and internet service, and water. Utility structures shall not include fire hydrants, traffic control devices, or other City equipment.

2. Permit: means a Private Property Utility Structure permit issued by the City of Clayton.

3. Front Yard, Rear Yard and Side Yard: shall have the same definition(s) as set forth in Chapter 1103 of the Clayton Codified Ordinances. Provided that, in the event a lot is on a corner such that both a front yard and a side yard abut a street, the side yard that abuts a street shall also be considered a front yard for purposes of this Chapter.

4. Utility System: means a functionally related group of facilities or elements that deliver a service such as, but not limited to, water, sanitary sewage collection, storm water collection, gas, fuel, heat, steam, electricity, electric powered trolley bus, electric powered light or heavy rail transit, telephone, integrated service digital network (ISDN), cellular telephone, personal communications services (PCS), competitive access providers (CAPs) or competitive local exchange carriers (CLECs) that provide telephone service, paging and signaling systems, satellite phone service, radio, television, cable television, digital television (DTV), video, open video services (OVS), video ready access devices (VRAD), wireless television systems, direct broadcast satellite (DBS), video systems, telecommunications, data transmission, fibre optic network information transmission, private fibre optic data transmission lines between buildings, computer interconnection, roadway traffic signal interconnections, rail transportation, water transportation, public transportation, storm transportation, and sanitary sewer transportation.

5. Mid-span pole: means a pole that is located approximately half-way between two existing poles where the new utility is attached to all three poles and the Mid-span pole is installed in order to maintain proper clearance(s) or to reduce load on the two existing poles.

6. Singe use pole: means a utility pole which is added to an existing line of utility poles, for the sole purpose of installation of a new utility, in lieu of upgrading the existing pole(s) or installing the utility underground.

## SECTION 930.02 UTILITY STRUCTURES

Utility Structures shall be classified as follows:

(a) Small Utility Structures shall be less than 36” in height above grade, less than 36” in width, and less than 36” in depth.

(b) Large Utility Structures shall be greater than 36” in height above grade, greater than 36” in width, and greater than 36” in depth.

(c) If all three dimensions do not fall within the same size classification, then the utility structure will be classified based on the dimension that falls within the largest classification.

## SECTION 930.03 PRIVATE PROPERTY STRUCTURE PERMIT

(a) Unless otherwise exempted ~~herefrom~~ by state law, a Private Property Utility Structure Permit issued by the ~~City Director of Community Services~~ **Public Service Director** shall be required for the following utility structures:

(1) New small utility structures located in the front yard.

(2) New large utility structures regardless of location.

~~(3) Replacement of large utility structures in the front yard.~~

(b) No Permit is required for the following structures:

~~(1) New small utility structures in the side or rear yard.~~

~~(2) New utility poles regardless of location.~~

~~(3)~~**(1)** Replacement of small utility structures regardless of location, provided that all unused utility structures are promptly removed.

~~(4) Replacement of large utility structures in the side or rear yard, provided that all unused utility structures are promptly removed.~~

~~(5)~~**(2)** Replacement of utility poles regardless of location, provided that all unused utility structures are promptly removed.

~~(6)~~**(3)** A utility structure that is physically attached to a building, such as a meter or service box or to the wiring, cable, pipe, or conduit that provides utility service from a service main to the individual property, or to gas meter regulators.

(c) If a Permit is required, the utility company or applicant shall provide written notice to the owner of the property upon which the utility structure is to be located, to all property owners within 100 feet of the proposed utility structure and to all property owners whose property abuts the property on which the utility structure is proposed to be located. All notices to property owners shall be in writing and sent by U.S. mail, certified with return receipt (green card) requested. In lieu of certified mail, the notices may be provided by hand delivery, and with such election, proof

of hand delivery shall be provided by form of receipt (Appendix A) and affidavit (Appendix B) supplied by the City of Clayton. A copy of all written notices sent and proof of delivery shall be submitted to the ~~City Director of Community Services~~ **Public Service Director**. A Permit shall not be issued until at least 14 days after the written notice has been hand delivered or mailed.

The written notice to property owners required herein shall, at minimum, inform the owners of the following:

(1) The utility company and applicant's full name, mailing address, phone number and contact person;

(2) A statement that application has or will be filed with the City of Clayton for a permit for installation of a utility structure;

(3) A statement describing the size of the proposed utility structure and a drawing to show the proposed location of the utility structure;

(4) A statement that the owner has a right to provide the City of Clayton ~~Director of Community Services~~ **Public Service Director** with written concerns about the proposed utility structure by mailing or delivering those concerns to: City of Clayton ~~Director of Community Services~~ **Public Service Director**, P.O. Box 280, Clayton, OH 45315-0280 or delivering same to the ~~Director of Community Services~~ **Public Service Director** at 6996 Taywood Road.

~~If the utility structure does not require a permit, then the utility company or applicant shall provide written post-installation notification to the City Director of Community Services within 30 days.~~

(d) Along with the completed written application supplied by the City of Clayton, and the written notices and proof of same required herein, the utility company or applicant shall also submit to the ~~City Director of Community Services~~ **Public Service Director** a copy of the easement or other written documentation that clearly shows the legal authority and ownership of property rights sufficient for the utility company or applicant to place the utility structure in the proposed location.

(e) The ~~City Director of Community Services~~ **Public Service Director** shall review the application submitted by the utility company or applicant and any written concerns submitted by the property owner and all property owners within 100 feet of the utility structure and all property owners whose property abuts the property on which the utility structure is proposed to be located and all other required information. There shall be a ~~fifty dollar (\$50.00)~~ fee paid to the City **in accordance with the current City fee schedule** at the time the application is submitted. The ~~City Director of Community Services~~ **Public Service Director** shall issue a permit approving the utility structure, after the required notice is given, if the utility structure meets the location guidelines and screening criteria contained herein.

(f) The ~~City Director of Community Services~~ **Public Service Director** may grant a utility company temporary approval of a utility structure when it is necessary in order to provide essential services in an emergency or to a new customer. If immediate action is required, a utility company has temporary approval to take action necessary to respond to an emergency. As soon as practicable, the utility company shall notify the ~~City Director of Community Services~~ **Public Service Director** of the emergency action taken. Within 5 days after obtaining temporary

approval, the utility company shall file for a permit. Temporary approval shall expire 90 days from the date of issuance and is conditioned upon the utility company relocating or removing the utility structure within 120 days if a permit is not granted for the utility structure.

## **SECTION 930.04 LOCATION GUIDELINES**

(a) Unless otherwise exempted ~~therefrom~~ by state law, Utility Structures may be placed in the public right-of-way only with prior written approval of the ~~City Director of Community Services~~ **Public Service Director**. In deciding whether to issue such written approval, the ~~Director of Community Services~~ **Public Service Director** shall consider: whether the issuing of the approval will contribute to the health, safety, and welfare of the City and its citizens; whether issuing of the approval will be consistent with this Chapter; the impacts of the proposed location of applicant's elements on aesthetic and architectural compatibility with the surrounding environment; whether aesthetic and good planning principles have been given due consideration; and that adverse impact on the environment had been minimized in addition to minimizing the adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location, which shall mean using the least visually and physically intrusive elements (including associated screening and vegetation) that is not technologically or commercially impracticable under the facts and circumstances; whether the applicant has submitted a complete application and has secured all certificates and other authorizations required by law in order to construct and operate a system in the manner proposed by the applicant; whether the applicant is delinquent on any taxes or other obligations owed to the City, Montgomery County, Ohio or the State of Ohio; whether the applicant has the requisite financial, managerial, and technical ability to fulfill all the obligations under this Chapter and the issuance of the written approval hereunder; and any other applicable law.

To protect the public health, safety, and welfare in recognition of the limitation of space in the Public Right of Way, the ~~Director of Community Services~~ **Public Service Director** shall have the power to prohibit or limit the placement of new facilities or additional elements of an existing Utility System within a Public Right of Way if there is insufficient space to accommodate all of the requests of persons to occupy and use the Public Right of Way. In making such decisions, the ~~Director of Community Services~~ **Public Service Director** shall strive to the extent possible to accommodate all existing and potential users of the Public Right of Way, but shall be guided primarily by considerations of the public interest, the public's need for the particular utility service, the condition of the Public Right of Way, the time of year with respect to essential utilities, the protection of existing elements of Utility Systems in the Public Right of Way, and the future City plans for public improvements and development projects which have been determined to be in the public interest.

(b) Utility structures located on private property:

(1) Large Utility Structures shall not be located within the front yard or within the required street side yard. Large Utility Structures may be located in a rear yard and in a non-street side yard, provided the structure adheres to the applicable provisions of this Chapter.

(2) Large Utility Structures shall be placed as far back from a public right-of-way as reasonably possible as determined by the ~~City Director of Community Services~~ **Public Service Director**.

(3) Small Utility Structures may be located within required front and street side yards provided there is adequate screening as per subsection 930.05 (Screening Standards), below. Small Utility Structures may be located within a rear yard and within a non-street side yard.

(4) If multiple Small Utility Structures are proposed for placement in the same vicinity in a front yard or within a street side yard, they shall be located as follows:

A. If two Small Utility Structures are located within six (6) feet of each other, placement of each structure shall be parallel to the closest public right-of-way as much as possible.

B. If three Small Utility Structures are located within six (6) feet of each other, placement shall require two structures parallel to the closest public right-of-way with the third directly behind one of the front (and closer to the right-of-way) Small Utility Structures.

C. If four Small Utility Structures are located within six (6) feet of each other, placement shall be two boxes parallel to the closest public right-of-way, with the third directly behind one of the front two Small Utility Structures and the fourth directly behind the other front Small Utility Structure.

D. If more than four Small Utility Structures are located within six (6) feet of each other, placement shall be as determined by the ~~City Director of Community Services~~ **Public Service Director**.

(c) The placement of any Utility Structures shall not obstruct sight distance requirements for public street intersections as provided in the then current edition of the Ohio Manual for Uniform Traffic Control Devices.

(d) All Utility Structures must be coordinated to the extent possible with existing Utility Structures, reducing the total number of Utility Structures.

(e) All Utility Structures must have at least a ten foot clearance from fire hydrants.

**(f) New utilities installed above ground must attach to existing utility poles, where they exist. If the existing pole(s) are at maximum capacity, they shall be upgraded with a replacement pole or a Mid-span pole in order to accommodate the new utility or the new utility shall be located underground. The installation of Single use poles that are not Mid-span poles is not permitted between existing utility poles.**

## **SECTION 930.05 SCREENING STANDARDS**

(a) Screening may consist of both Native Vegetation as well as plants specifically installed to significantly block the appearance of the Utility Structure.

(b) Fences and/or walls may be included as elements to meet Utility Structure

screening requirements only upon written determination by the ~~City Director of Community Services~~ **Public Service Director** that such elements are appropriate for the particular Utility Structure location, and after comment or opportunity for comment by the owners of the properties upon which the Utility Structure is to be located.

(c) Screening shall consist of plants in a quantity, size and location which provide at least 50% opacity after one year's (one growing season) growth.

(d) Unless fences and/or walls are approved by the ~~City Director of Community Services~~ **Public Service Director**, the minimum number of plants shall be as follows:

(1) For single, Large Utility Structures, a combination of at least five (5) bushes or trees shall be installed.

(2) For two or more Large Utility Structures, a combination of at least eight (8) bushes or trees shall be installed for the first two Large Utility Structures, and three (3) more bushes or trees for each additional Structure.

(3) For single, Small Utility Structures, located in a front yard or located in a street side yard, a combination of at least three (3) bushes or flowering plants shall be installed.

(4) For multiple Small Utility Structures located in a front yard or located in a street side yard, a combination of at least five (5) bushes or flowering plants shall be installed for the first two Small Utility Structures, and thereafter the number of additional plants for each additional Small Utility Structure in the same front or street side yard shall be as determined by the ~~City Director of Community Services~~ **Public Service Director**.

(e) The ~~City Director of Community Services~~ **Public Service Director** shall approve the location, size and types of required screening plants prior to issuance of a Permit.

**(f) Utility poles are exempt from the screening standards described herein.**

## **SECTION 930.06 APPEAL**

The ~~City Director of Community Services~~' **Public Service Director**'s decision to deny a Permit may be appealed to the City Manager. All appeals on a denial of a Permit must be made in writing within ten (10) calendar days from the date of the action being appealed. If the ~~City Director of Community Services~~ **Public Service Director** denies a Permit, the ~~City Director of Community Services~~ **Public Service Director** shall notify the applicant in writing of the denial, suspension or revocation, including the grounds therefore, within three (3) business days of such decision. If a Notice of Appeal is timely received by the City Manager, the City Manager shall notify the respondent within three (3) business days of receipt of the request for appeal and of a hearing date to be within twenty-one (21) calendar days. The respondent and/or opponents may appear and be heard in person, and/or by his or her attorney, in opposition to the decision and do any of the following: present his or her positions, arguments and contentions, offer and examine witnesses and present evidence in support, cross-examine witnesses purporting to refute respondent's position, arguments and contentions, offer evidence to refute evidence and testimony offered in



opposition to his/her position, arguments and contentions and proffer any such evidence into the record. The City Manager shall render a decision within five (5) business days after the hearing.

2. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.

3. That in accordance with Charter Section 4.031(B) the requirement that this ordinance be read on two (2) different days is dispensed with by affirmative vote of at least five (5) of the members of Council.

4. That this Ordinance is hereby declared to be an emergency measure necessary in order to provide for the continued protection of the public peace, health, safety, and welfare and that it is in the best interests of the citizens of this City to protect against utility structures being installed without proper oversight or notice to adjacent property owners and this Ordinance will provide revised regulations necessary to advance its purposes. An additional reason for said emergency is to timely address the placement of the structures regulated and to protect the public interest thereby.

ADOPTED BY COUNCIL ON OCTOBER 3, 2019

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## **RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)**

### **RESOLUTION NO. R – ZC – 19 – 01**

#### **A RESOLUTION APPROVING THE RECOMMENDATION OF THE PLANNING COMMISSION TO APPROVE APPLICATION SUBMITTED BY XBO PROPERTIES, LLC TO REZONE THE PROPERTY LOCATED AT 1885 WESTBROOK ROAD (PARCEL ID NUMBER M60-103209-0044) FROM GB: GENERAL BUSINESS TO R-3: SUBURBAN RESIDENTIAL**

**WHEREAS**, an application requesting the property located at 1885 Westbrook Road within the City of Clayton (Parcel ID Number M60-103209-0044) was filed by XBO Properties, LLC on July 3, 2019; and

**WHEREAS**, the Clayton Planning Commission held a public hearing on July 22, 2019 and voted unanimously to recommend to Clayton City Council approval of the requested rezoning contingent upon the Clayton Board of Zoning Appeals approving the required variances; and

**WHEREAS**, the Clayton Board of Zoning Appeals held a public hearing on August 20, 2019 and via unanimous vote, approved the required variances; and

**WHEREAS**, the Clayton City Council held a public hearing on October 3, 2019 regarding the recommendation of the Planning Commission to approve the requested rezoning at 1885 Westbrook Road within the City of Clayton (Parcel ID Number M60-103209-0044).

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the recommendation of the Clayton Planning Commission to approve the requested rezoning from GB: General Business to R-3: Suburban Residential for the property located at 1885 Westbrook Road within the City of Clayton (Parcel ID Number M60-103209-0044) is hereby approved.
2. That this Resolution shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.

ADOPTED BY COUNCIL ON OCTOBER 3, 2019

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**RESOLUTION NO. R – 10 – 19 – 65**

**A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE MONTGOMERY COUNTY BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR**

**WHEREAS**, the Council of the City of Clayton, Montgomery County, Ohio met in Regular session on the 3<sup>rd</sup> day of October, 2019, at the office of the City of Clayton with the following Council members present: Mayor Mike Stevens, Dennis Lieberman, James T. Gorman, Kenneth Henning, Tina Kelly, Brendan Bachman, and Greg Merkle; and

**WHEREAS**, pursuant to R.C. 5705.281 and .30 the Budget Commission of Montgomery County has waived the requirement that political subdivisions within the County adopt a Tax Budget for submission to the Budget Commission; and

**WHEREAS**, pursuant to R.C. 5705.34 and .35 the Budget Commission of Montgomery County, Ohio has completed its work relative to preparation of a Tax Budget for the City of Clayton and certified its action to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council and what part thereof is without, and what part within, the ten mill tax limitation provided under Ohio statute.

James T. Gorman moved the adoption of the following Resolution.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the amounts and rates, as determined by the Budget Commission in its certification, are hereby accepted.
2. That there be and is hereby levied on the tax duplicate of said City of Clayton the rate of each tax necessary to be levied within and without the ten mill limitation as set forth on **Schedules A and B** appended hereto and made a part hereof.

3. That the Clerk of Council be and is hereby directed to certify a copy of this Resolution to the Montgomery County Auditor.

Kenneth Henning seconded the adoption of the following Resolution and the roll being called upon its adoption the vote resulted as follows:

Mayor Mike Stevens	Yes
Dennis Lieberman	Yes
Kenneth Henning	Yes
James T. Gorman	Yes
Tina Kelly	Yes
Brendan Bachman	Yes
Greg Merkle	Yes

ADOPTED BY COUNCIL ON OCTOBER 3, 2019

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### **RESOLUTION NO. R – 10 – 19 – 66**

#### **A RESOLUTION PROVIDING CONSENT TO THE OHIO DEPARTMENT OF TRANSPORTATION TO COMPLETE THE PROJECT DESCRIBED AS “OVERLAY OF INTERSTATE ROUTE 70 FROM STRAIGHT LINE MILE 6.71 TO STRAIGHT LINE MILE 10.79, MORE OR LESS, WITH A PORTION IN THE CITY OF CLAYTON” AND BEARING PID NO 100961**

**WHEREAS**, the State has determined the need for the described project:

*Overlay of Interstate Route 70 from Straight Line Mile 6.71 to Straight Line Mile 10.79, more or less, with a portion in the City of Clayton.*

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. Being in the public interest, the City of Clayton, Ohio (“LPA”) gives consent to the Director of Transportation to complete the above described project.
2. The LPA shall cooperate with the Director of Transportation in the above described project as follows: The State shall assume and bear 100% of all of the costs of the improvement.
3. The LPA agrees to pay 100% of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.
4. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
5. The LPA agrees that all utility accommodation, relocation and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

6. That, upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23 U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

7. This Resolution shall take effect and be in force from and after the date of its passage.

ADOPTED BY COUNCIL ON OCTOBER 3, 2019

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**RESOLUTION NO. R – 10 – 19 – 67**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID SUBMITTED BY THRUSH & SON, LLC FOR ASPHALT SHINGLE ROOFING REPLACEMENT AT MEADOWBROOK AT CLAYTON AT A COST NOT TO EXCEED \$102,818.82**

**WHEREAS**, in accordance with the provisions of Charter Section 8.02, bids were solicited for asphalt shingle roofing replacement at Meadowbrook at Clayton; and

**WHEREAS**, said bids have been received and reviewed and the City Manager and City staff have recommended for acceptance the bid submitted by Thrush & Son, LLC as being the lowest and best bid submitted by a responsible bidder; and therefore City staff recommends accepting said bid in accordance with the terms of the request for bids.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the City Manager is authorized, in accordance with the terms of the request for bids, to accept the bid submitted by Thrush & Son, LLC for asphalt shingle roofing replacement at Meadowbrook at Clayton and for a total cost not to exceed \$102,818.82.

ADOPTED BY COUNCIL ON OCTOBER 3, 2019

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**RESOLUTION NO. R – 10 – 19 – 68**

**A RESOLUTION AUTHORIZING THE SUBMITTAL OF APPLICATIONS FOR FEDERAL FAST ACT FUNDS THROUGH THE MIAMI VALLEY REGIONAL PLANNING COMMISSION**

**WHEREAS**, the Miami Valley Regional Planning Commission (MVRPC) has solicited local government entities to submit new transportation projects for funding consideration in the Transportation Improvement Program (TIP); and

**WHEREAS**, the City of Clayton, Ohio has committed to a timely project development schedule; and

**WHEREAS**, the City of Clayton, Ohio will commit the necessary resources to support the estimated local cost portion of the projects and the following list of projects will be submitted to MVRPC, shown in order of the City of Clayton, Ohio's priority from number 1 to 2:

1. Hoke Road Widening Project, Phase I - Estimated Local Share \$547,339
2. Westbrook Resurfacing Project - Estimated Local Share \$200,000

**WHEREAS**, the City of Clayton, Ohio requests the following exemptions from MVRPC's Complete Streets Policy for the proposed Westbrook Resurfacing Project funding application: The project qualifies for an exception because the project consists of maintenance, repair or resurfacing of an existing cross-section only. (Cyclist and pedestrian exemption)

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

**SECTION I.** This Resolution shall serve to authorize the transmittal and submittal of applications for the following transportation projects to MVRPC for funding consideration in the Transportation Improvement Program (TIP):

1. Hoke Road Widening Project, Phase I - Estimated Local Share \$547,339
2. Westbrook Road Resurfacing Project - Estimated Local Share \$200,000

**SECTION II.** The City Manager is hereby authorized to sign on behalf of the City the application for funds as referred to in Section I of this Resolution.

**SECTION III.** The City Manager is hereby directed and authorized to take or cause to be taken all other action necessary and proper to secure the funding sought by the application referred to herein, and provide any additional information sought by reviewing agencies during the time the application is under review. The City Manager is further directed and authorized to cause compliance with all reporting requirements required by the Miami Valley Regional Planning Commission (MVRPC) as required as part of the funding process

**SECTION IV.** Upon application approval, the City hereby states its commitment to the local contribution for the project as identified in these applications, including local contribution of costs exceeding the current estimates or subsequent revised estimates as accepted by the MVRPC.

**SECTION V.** It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

**SECTION VI.** This Resolution shall become effective immediately upon its passage.