

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

October 1, 2020

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OLD BUSINESS - NONE

NEW BUSINESS

ORDINANCES **(TABLED)**

### ORDINANCE NO. O – 10 – 20 – 19

**AN ORDINANCE APPROVING AND AUTHORIZING THE CITY MANAGER TO SIGN *MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION LAND BANKING AGREEMENT* (“AGREEMENT”) RELATIVE TO REAL PROPERTY OWNED BY THE CITY OF CLAYTON, OHIO AND BEARING PARCEL I.D. NUMBER M60 00217 0010 AND FURTHER AUTHORIZING THE TRANSFER OF SAID REAL PROPERTY TO THE MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION CONSISTENT WITH THE TERMS AND CONDITIONS OF THE ATTACHED AGREEMENT**

**WHEREAS**, City staff has requested authority for the City Manager to sign the attached *Montgomery County Land Reutilization Corporation Land Banking Agreement* (“Agreement”) and further to transfer to the Montgomery County Land Reutilization Corporation, consistent with the terms and conditions of the attached Agreement, the real property owned by the City of Clayton, Ohio bearing Parcel I.D. Number M60 00217 0010.

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

1. That the City Manager is hereby authorized to sign the attached *Montgomery County Land Reutilization Corporation Land Banking Agreement* (“Agreement”) and to further transfer to the Montgomery County Land Reutilization Corporation consistent with the terms and conditions of the attached Agreement, the real property owned by the City of Clayton, Ohio bearing Parcel I.D. Number M60 00217 0010.
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 Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on October 1, 2020 and October 15, 2020.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

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

**RESOLUTION NO. R – 10 – 20 – 46**

**A RESOLUTION FINDING THAT PUBLIC SAFETY PERSONNEL ARE  
SUBSTANTIALLY DEDICATED TO MITIGATING OR RESPONDING TO THE  
COVID-19 PUBLIC HEALTH EMERGENCY**

**WHEREAS**, the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, (the CARES Act) was signed into law by the President of the United States on March 27, 2020; and

**WHEREAS**, in House Bill 481 of the 133<sup>rd</sup> General Assembly (HB 481), the Ohio General Assembly established a process for distributing funds provided by the CARES Act; and

**WHEREAS**, HB 481, required political subdivisions receiving funds under Section 1 of the CARES Act, to pass a resolution affirming that funds from the County Coronavirus Relief Distribution Fund may be expended only to cover costs of the political subdivision consistent with the requirements of section 5001 of the CARES Act as described in 42 U.S.C. 801(d), and any applicable regulations before receiving said funds; and

**WHEREAS**, on June 18, 2020 this Council adopted Resolution No. 06-20-29 and affirmed that all funds received from the Montgomery County Coronavirus Relief Distribution Fund pursuant to HB 481 be expended only to cover costs of the City of Clayton consistent with the requirements of Section 5001 of the CARES Act as described in 42 U.S.C 801(d) and any applicable regulations and guidance; and

**WHEREAS**, the Ohio Office of Budget and Management (OBM), in its Guidance & Frequently Asked Questions, updated August 28, 2020, (OBM Guidance) directed local jurisdictions to “evaluate all proposed expenditures based on guidance contained within the U.S. Department of Treasury Guidance and Coronavirus Relief Fund Frequently Asked Questions”; and

**WHEREAS**, the OBM Guidance further advised that “it is presumed for administrative convenience that personnel costs related to [public safety] are substantially dedicated” for purposes of the CARES Act unless the chief executive of the entity receiving the funds determines otherwise; and

**WHEREAS**, the United States Department of the Treasury (Treasury), in its Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, dated September 2, 2020, (Treasury Guidance) advised that “[p]ayroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency” are eligible expenditures of CARES Act funds; and

**WHEREAS**, the Treasury Guidance further advised that local governments may presume that “public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently

approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020”; and

**WHEREAS**, the Treasury Guidance further advised that “public safety employees” include “police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel”.

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

1. In reliance on the Treasury Guidance and OBM Guidance and having examined the circumstances of the City of Clayton, this Council finds and determines that the Treasury presumption that City of Clayton public safety employees meet the substantially dedicated test applies and no specific circumstances rebut the presumption. This Council further finds and determines that the following City of Clayton public safety positions are substantially dedicated to mitigating or responding to the COVID-19 public health emergency:

**Fire Department**

*Chief*

*Battalion Chief*

*Lieutenant*

*Firefighter/Paramedic*

*Firefighter/EMT*

**Police Department**

*Chief*

*Sergeant*

*Detective*

*Officer*

Therefore, current and future distributions of CARES Act funds to the City of Clayton may be expended to cover the payroll and benefits of the public safety positions listed above.

2. That this Resolution shall take effect from and after the date of its passage.

**RESOLUTION NO. R – 10 – 20 – 47**

**A RESOLUTION APPROVING APPOINTMENT OF A SPECIAL PLAN CLAYTON IMPLEMENTATION COMMITTEE TO REVIEW AND RECOMMEND CONCERNING IMPLEMENTATION OF PLAN CLAYTON**

**WHEREAS**, in order to better implement Plan Clayton, Council desires to appoint a special committee to review and recommend regarding suggested implementation methods for same.

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

1. That Council hereby approves the appointment by the Mayor of a Special Plan Clayton Implementation Committee to review and recommend concerning the implementation of Plan Clayton.
2. Said Special Committee shall be comprised of the following individuals:
  - a. Two (2) Elected Officials;
  - b. One (1) Planning Commission Member;
  - c. One (1) Real Estate Professional; and
  - d. One (1) Clayton Resident Per Ward.
3. Said Special Committee shall comply with City Council Rule V – B concerning Special Committees, and shall comply with the Ohio Open Meeting Act.

ADOPTED BY COUNCIL ON OCTOBER 1, 2020

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**RESOLUTION NO. R – 10 – 20 – 48**

**A RESOLUTION AUTHORIZING THE SUBMITTAL OF APPLICATION 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:

1. *Hoke Road Widening and Utility Project (From Smith Drive to Wenger Road) - Estimated Local Share \$703,861.00*

**WHEREAS**, the City of Clayton, Ohio requests the following exemptions from MVRPC's Complete Streets Policy for the proposed *Hoke Road Widening and Utility Project (From Smith Drive to Wenger Road)* funding application: N/A.

**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 and Utility Project (From Smith Drive to Wenger Road) - Estimated Local Share \$703,861.00*

**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.

THIS RESOLUTION ADOPTED BY COUNCIL ON OCTOBER 1, 2020

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**RESOLUTION NO. R – 10 – 20 – 49**

**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 1<sup>st</sup> day of October, 2020, 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.

Mr. 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.**

Ms. Kelly 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 1, 2020

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**RESOLUTION NO. R – 10 – 20 – 50**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A RENEWAL AGREEMENT WITH THE PUBLIC ENTITIES POOL OF OHIO (PEP) AND BURNHAM AND FLOWER INSURANCE GROUP FOR THE PROVISION OF PROPERTY, CASUALTY AND LIABILITY INSURANCE COVERAGE FOR NOVEMBER 1, 2020 – OCTOBER 31, 2021 WITH AN ANNUAL PREMIUM NOT TO EXCEED \$101,185.00**

**WHEREAS**, Section 8.02 (C)(3)(b) exempts intergovernmental contracts or expenditures from competitive bidding; and

**WHEREAS**, renewal of the current property, casualty and liability insurance policy with PEP permits continuation of the contract plan and coverage at the best and lowest price reasonably possible; and

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

1. That the City Manager is hereby authorized to accept the proposal of and enter into a renewal agreement with the Public Entities Pool of Ohio (PEP) and Burnham and Flower Insurance Group for the provision of property, casualty, and liability insurance from November 1, 2020 through October 31, 2021 at an annual premium cost not in excess of \$101,185.00.
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 Resolution or which imposes additional requirements for effectiveness or validity.

ADOPTED BY COUNCIL ON OCTOBER 1, 2020

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**RESOLUTION NO. R – 10 – 20 – 51**

**A RESOLUTION REPEALING CLAYTON RESOLUTION NO. R-09-20-43  
PREVIOUSLY ADOPTED ON SEPTEMBER 3, 2020**

**WHEREAS**, based on previous guidance from the Auditor of State of Ohio, Council adopted Resolution No. R-09-20-43 amending 2020 estimated resources and appropriations, on September 3, 2020, a true and accurate copy of which is appended hereto as **Exhibit A**; and

**WHEREAS**, since September 3, 2020, the Auditor of State has revised its guidance on Local Coronavirus Relief Funds, specifically regarding transfers of said funds; and

**WHEREAS**, originally, transfers to funds which incurred expenses before the Coronavirus Relief Funds were received were allowable, but now the Auditor of State does not recommend transferring funds but rather, reclassifying the expenses into the Local Coronavirus Relief Fund; and

**WHEREAS**, previously adopted Resolution No. R-09-20-43 needs to be rescinded such that the Montgomery County Auditor's Office will not adjust the City's estimated resources and appropriations and said Resolution needs to be rescinded in order to remove authorization to transfer funds.

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

1. That Resolution No. R-09-20-43 (**Exhibit A**) is hereby repealed.
2. This Resolution shall become immediately effective.

ADOPTED BY COUNCIL ON OCTOBER 1, 2020

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**RESOLUTION NO. R – 10 – 20 – 52**

**A RESOLUTION APPROVING AMENDMENT OF 2020  
APPROPRIATIONS AND ESTIMATED RESOURCES**

**WHEREAS**, during the operation of the City of Clayton certain expenditures are required to provide required governmental services; and

**WHEREAS**, the expenditures must be in accordance with requirements provided by applicable state law and be applied against certain designated City funds; and

**WHEREAS**, certain transfers of moneys within and between specified City funds may be required to comply with accounting requirements established by the office of the State Auditor of Ohio; and

**WHEREAS**, certain appropriations are necessary to authorize payment from certain funds; and

**WHEREAS**, Council previously approved the Original Certificate of Estimated Resources and Appropriations; and

**WHEREAS**, the Finance Director has requested amendment of the 2020 Appropriations and Estimated Resources with respect to the Service Fund (401) and Local Coronavirus Relief Fund (707).

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

1. That the following amendments are hereby approved as follows and the appropriation amendments are for *expenses (operational)(personnel) as indicated below*:

<b><u>Fund</u></b>	<b><u>Estimated Resource Amount</u></b>	<b><u>Appropriation Amount</u></b>
Service (401)		\$24,285.00 <b>(operating)</b>
Local Coronavirus Relief (707)	\$94,532.88	\$39,532.88 <b>(operating)</b>
		\$55,000.00 <b>(personnel)</b>

2. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to effect such amendments and appropriations and evidence same on the books and financial record of the City.

ADOPTED BY COUNCIL ON OCTOBER 1, 2020

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**RESOLUTION NO. R – 10 – 20 – 53**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE  
TOUCHLESS DOORS FOR MEADOWBROOK AT CLAYTON FROM MODERN  
ENTRANCE SYSTEMS, INC. FOR A PRICE NOT TO EXCEED \$33,900.00**

**WHEREAS**, via City Charter Section 8.02(C)(1) and enactment of Ordinance No. 08-18-17 on September 6, 2018, the current minimum competitive bid threshold is \$53,748.00; and

**WHEREAS**, the present expenditure is below the current minimum competitive bid threshold and therefore competitive bidding is not required; and



**WHEREAS**, the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, (the CARES Act) was signed into law by the President of the United States on March 27, 2020; and

**WHEREAS**, in House Bill 481 of the 133<sup>rd</sup> General Assembly (HB 481), the Ohio General Assembly established a process for distributing funds provided by the CARES Act; and

**WHEREAS**, HB 481, required political subdivisions receiving funds under Section 1 of the CARES Act, to pass a resolution affirming that funds from the County Coronavirus Relief Distribution Fund may be expended only to cover costs of the political subdivision consistent with the requirements of section 5001 of the CARES Act as described in 42 U.S.C. 801(d), and any applicable regulations before receiving said funds; and

**WHEREAS**, on June 18, 2020 this Council adopted Resolution No. 06-20-29 and affirmed that all funds received from the Montgomery County Coronavirus Relief Distribution Fund pursuant to HB 481 be expended only to cover costs of the City of Clayton consistent with the requirements of Section 5001 of the CARES Act as described in 42 U.S.C 801(d) and any applicable regulations and guidance; and

**WHEREAS**, City staff has recommended purchase of touchless entry doors for the Main and Banquet entries of Meadowbrook at Clayton as a public safety measure undertaken in response to COVID-19; and

**WHEREAS**, Council agrees with staff that the purchase of touchless entry doors for the Main and Banquet entries of Meadowbrook at Clayton is a public safety measure undertaken in response to COVID-19 in an effort to provide a safer public building.

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

1. That the purchase of touchless entry doors for the Main and Banquet entries of Meadowbrook at Clayton is determined to be a public safety measure undertaken in response to COVID-19 in an effort to provide a safer public building.
2. That the City Manager is hereby authorized to purchase from Modern Entrance Systems, Inc. touchless entry doors for the Main and Banquet entries of Meadowbrook at Clayton for a total amount not to exceed \$33,900.00.

ADOPTED BY COUNCIL ON OCTOBER 1, 2020

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