

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

July 21, 2022

OLD BUSINESS

ORDINANCES - SECOND OF TWO READINGS

ORDINANCE NO. O – 06 – 22 – 16

**AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S
RECOMMENDATION, WITH CONDITION, TO APPROVE THE APPLICATION OF
THE KLEINGERS GROUP FOR RIGHT OF WAY AND EASEMENTS PLAT
APPROVAL FOR THE GRAND VILLAS OF CLAYTON WITH RESPECT TO 15.144
ACRES AND BEARING PARCEL ID NUMBER M60 03102 0032 WITHIN THE CITY
OF CLAYTON, OHIO**

WHEREAS, on or about May 2, 2022, The Kleingers Group submitted application for approval of the Right of Way and Easements Plat for the Grand Villas of Clayton located on 15.144 acres and bearing Parcel ID Number M60 03102 0032 within Clayton, Ohio; and

WHEREAS, the Clayton Planning Commission held a public hearing on May 23, 2022, on said plat approval request at which time any and all persons were given an opportunity to be heard thereon, and;

WHEREAS, *the Clayton Planning Commission after public meeting on May 23, 2022, recommended approval of the subject Right of Way and Easements Plat for the Grand Villas of Clayton subject to the following condition: "The Applicant must address the comments resulting from the Staff Review and emailed to the Applicant on May 23, 2022. Those comments must be addressed for the submission of the plat for signatures."*; and

WHEREAS, the City Council held a public hearing on June 16, 2022 on said request at which time any and all persons were given an opportunity to be heard thereon.

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

1. That the Council hereby **ADOPTS** the *recommendation of approval by the Clayton Planning Commission for the Right of Way and Easements Plat for the Grand Villas of Clayton subject to the following condition: "The Applicant must address the comments resulting from the Staff Review and emailed to the Applicant on May 23, 2022. Those comments must be addressed for the submission of the plat for signatures."* *The Staff Review comments email dated May 23, 2022 is appended hereto as Exhibit A.*

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 June 16, 2022 and July 21, 2022.

4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON JULY 21, 2022

ORDINANCE NO. O – 06 – 22 – 17

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE, WITH CONDITION, THE APPLICATION OF OAKES TREE DEVELOPMENT FOR A CHANGE IN ZONING FROM RESIDENTIAL SINGLE-UNIT DISTRICT (RSD) (FORMERLY R-1 OPEN SPACE RESIDENTIAL) TO PLANNED DEVELOPMENT DISTRICT (PDD) (FORMERLY PD-3 PLANNED DEVELOPMENT- BUSINESS) AND TO FURTHER APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF NATIONAL ROAD AND HABER ROAD (TO BE CALLED "NORTHWOOD ESTATES") CONSISTING OF PARCEL I.D. NUMBER M60 03012 0022 AND PARCEL I.D. NUMBER M60 03102 0105 AND CONTAINING 33.69 ACRES WITHIN THE CITY OF CLAYTON, OHIO

WHEREAS, on or about May 5, 2022, an application was filed by Oakes Tree Development, with consent of the property owner, for the property located at the Northwest Corner of National Road and Haber Road consisting of Parcel I.D. Number M60 03012 0022 and Parcel I.D. Number M60 03102 0105, and containing 33.69 acres within the City of Clayton, Ohio ("Subject Property")(to be called "Northwood Estates") and requesting a zoning change for same from Residential Single-Unit District (RSD) (formerly R-1 Open Space Residential) to Planned Development District (PDD) (formerly PD-3 Planned Development – Business) and further requesting approval of the proposed Preliminary Development Plan for said subject property; and

WHEREAS, the Clayton Planning Commission held a public hearing on May 23, 2022 on said re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon, and the Clayton Planning Commission, at said May 23, 2022 meeting, *voted to approve as submitted the re-zoning and Preliminary Development Plan request with the following condition: "The Applicant shall address the comments from the Staff Review emailed to the Applicant on May 20, 2022. These comments shall be addressed and/or provided as part of the Final Development Plan submittal."*; and

WHEREAS, the Clayton City Council held a public hearing on June 16, 2022, on the aforesaid re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon.

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

1. That the Council hereby ADOPTS the Planning Commission's *recommendation of approval of the re-zoning and Preliminary Development Plan request for the Subject Property with the following condition: "The Applicant shall address the comments from the Staff Review emailed to the Applicant on May 20, 2022. These comments shall be*

addressed and/or provided as part of the Final Development Plan submittal.” A copy of the Staff Review comments email dated May 20, 2022 is appended hereto as Exhibit A.

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 June 16, 2022 and July 21, 2022.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON JULY 21, 2022

NEW BUSINESS

ORDINANCES – FIRST OF TWO READINGS

ORDINANCE NO. O – 07 – 22 – 19

AN ORDINANCE APPROVING AMENDMENTS TO ARTICLE 6 AND ARTICLE 27 OF THE CITY’S PERSONNEL PRACTICES MANUAL

WHEREAS, pursuant to Charter Section 11.03, Council adopted Ordinance No. O-08-99-15 on October 7, 1999 adopting a Personnel Practices Manual; and

WHEREAS, the City Staff has recommended amendment of Article 6, Section B of the Personnel Practices Manual to add Juneteenth as a holiday, as shown on the attached *Exhibit A*; and

WHEREAS, the City Staff has recommended amendment of Article 27 of the Personnel Practices Manual to include additional methods of reporting fraud, as shown on the attached *Exhibit A*.

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

1. That Article 6, Section B, and Article 27 of the City’s Personnel Practices Manual is hereby amended as delineated in the attached *Exhibit A*.
2. That the City Manager is authorized to revise those portions of the Personnel Practices Manual, if any, which are directly impacted by the above language revisions.
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 July 21, 2022 and August 4, 2022.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON AUGUST 4, 2022

NEW BUSINESS

ORDINANCES - SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY

ORDINANCE NO. O – 07 – 22 – 20

AN ORDINANCE DIRECTING THE BOARD OF ELECTIONS OF MONTGOMERY COUNTY, OHIO TO PLACE ON THE BALLOT AT THE ELECTION TO BE HELD ON NOVEMBER 8, 2022 THE QUESTION OF WHETHER THE CITY OF CLAYTON, OHIO SHOULD EFFECT A GOVERNMENTAL ELECTRICITY AGGREGATION PROGRAM WITH OPT-OUT PROVISIONS PURSUANT TO SECTION 4928.20 OF THE OHIO REVISED CODE AND DECLARING AN EMERGENCY

WHEREAS, the Ohio Legislature has enacted electric deregulation legislation which authorizes the legislative authorities of municipal corporations, townships, and counties to aggregate the retail electrical loads located within the respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of electricity (“Governmental Aggregation”); and

WHEREAS, Governmental Aggregation pursuant to ORC Section 4928.20 provides an opportunity for certain consumers to participate collectively in the potential benefits of lower electricity rates which would not otherwise be available to those electricity consumers individually; and

WHEREAS, in the public interest, the City of Clayton, Ohio desires to submit to the electors of the City of Clayton, Ohio the question of whether the City of Clayton, Ohio should create an Electric Aggregation Program to facilitate competitive retail electric service to promote electric savings, lower cost electric supplies, and other benefits in accordance with ORC Section 4928.20.

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

SECTION 1: This Council finds and determines that to facilitate competitive retail electric service to promote electric savings, lower cost electricity supplies, and other benefits, it is in the best interest of the City of Clayton, Ohio and certain electricity consumers within the jurisdiction of the City of Clayton, Ohio to establish an Electric Aggregation Program in the City of Clayton, Ohio pursuant to ORC Section 4928.20. Provided that this Ordinance and Electric Aggregation Program is approved by the electors of the City of Clayton, Ohio in accordance with this Ordinance, the City of Clayton, Ohio is hereby authorized to take all actions necessary to affect an Electric Aggregation Program pursuant to ORC Section 4928.20. The City of Clayton, Ohio may exercise this authority jointly with other entities to the full extent permitted by law. Further, for such purposes, the City Manager of the City of Clayton, Ohio is hereby authorized to execute and deliver an agreement with a to-be-named agent (“Agent”) to assist the City of Clayton, Ohio as its consultant and Agent to affect the Electric Aggregation Program including determining and entering into service agreement(s) with suppliers to facilitate the sale and purchase of all electricity, competitive retail services, and retail electric generation to serve the enrolled consumers.

SECTION 2: The City of Clayton, Ohio shall be authorized by the electors to be the only entity authorized to act for and on behalf of the enrolled electric consumers to determine and select the provider(s) to supply the commodity and all other services for the Electric Aggregation Program and the enrolled consumers.

SECTION 3: The Electric Aggregation Program shall not apply to persons that are not eligible pursuant to Rules and/or Orders of the Public Utilities Commission of Ohio (“Commission”) or not eligible pursuant to the adopted plan of operations and governance (“Plan”) for the Electric Aggregation Program.

SECTION 4: The Board of Elections of Montgomery County, Ohio is hereby directed to submit the following question to the electors of the City of Clayton, Ohio at the election on November 8, 2022:

Shall the City of Clayton, Ohio have the authority to aggregate the retail electric loads located in the City of Clayton, Ohio, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out?

YES

NO

SECTION 5: *The Clerk of Council is instructed to file a certified copy of this Ordinance and the proposed form of the ballot question with the Montgomery County, Ohio Board of Elections not later than August 10, 2022, which is ninety (90) days prior to the November 8, 2022 election.*

SECTION 6: The Electric Aggregation Program shall not take effect unless approved by a majority of the electors voting upon the proposed ballot question at the election held in accordance with this Ordinance and ORC Section 4928.20. Upon approval, the Electric Aggregation shall take effect at the earliest permissible point in time and continue thereafter in accordance with ORC Section 4928.20, and other requirements of ORC Chapter 4928.

SECTION 7: Upon approval by a majority of the electors voting at the election provided for in this Ordinance, the City of Clayton, Ohio shall develop and adopt a Plan of operations and governance for the Electric Aggregation Program. Before adopting such Plan, at least two (2) public hearings on the Plan shall be held. Before the first hearing, notice of the first hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City of Clayton, Ohio. The notice shall summarize the Plan and state the date, time, and location of each hearing. Consumers enrolled in the Electric Aggregation Program shall be supplied their electrical requirements and other services in accordance with the supply agreements(s) determined and arranged by the City of Clayton, Ohio as opportunities become available to provide benefits to consumers. The City of Clayton, Ohio shall be authorized by the electors to be the only entity authorized to act for and on behalf of the consumers that have enrolled in the Electric Aggregation Program to determine and select the supplier(s) to provide the electricity and all other services for the Electric Aggregation Program.

SECTION 8: The adopted Plan shall not aggregate any retail electrical load within the City of Clayton, Ohio unless the person whose electrical load is to be so aggregated is notified in advance that the person will be enrolled automatically in the Electric Aggregation Program and shall remain so enrolled, unless the person affirmatively elects not to be so enrolled by a stated procedure. The disclosure shall state the rates, charges, and other terms and conditions of the enrollment. Once enrolled, the consumer may only opt-out of the Electric Aggregation Program every three (3) years without paying a switching fee. Any such person that opts-out of the Electric Aggregation Program shall default to the standard offer service of the person's electric distribution utility, until the person chooses an alternative supplier.

SECTION 9: The Montgomery County, Ohio Board of Elections shall cause appropriate notice(s) to be duly given of the election to be held on November 8, 2022, on the foregoing proposal and otherwise to provide for such election in the manner provided by the laws of the State of Ohio.

SECTION 10: This Council finds and determines that all formal actions of this Council and that all deliberations of this Council that resulted in those formal actions were in compliance with the law.

SECTION 11: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare in order to allow this issue to be placed on the November 8, 2022 ballot to allow the citizens of Clayton, Ohio an opportunity to affect an Electric Aggregation Program. Because the cost of electrical service is a significant cost to many of the citizens of Clayton, adoption of this Ordinance as an emergency measure will benefit the public health, safety, and welfare by potentially reducing the economic burden placed on many of the citizens of Clayton. 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. This Ordinance shall take effect immediately upon its adoption.

ADOPTED BY COUNCIL ON JULY 21, 2022

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 07 – 22 – 48

AUTHORIZING RESOLUTION (AGREEMENT)

**A RESOLUTION OF THE GOVERNING BODY OF CITY OF CLAYTON,
AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER
EQUIPMENT LEASE/PURCHASE AGREEMENT AND SEPARATE
EQUIPMENT SCHEDULES THERETO FOR THE ACQUISITION, FINANCING
AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT
WITHIN THE TERMS HEREIN PROVIDED; AUTHORIZING THE
EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN**

**CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL
OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE
TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION**

WHEREAS, City of Clayton (the “*Lessee*”), a city duly organized and existing as a political subdivision of the State of Ohio, is authorized by the laws of the State of Ohio to acquire, finance and lease personal property (tangible and intangible) for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the governing body of the Lessee (the “*Board*”) has determined that a need exists for the acquisition, financing and leasing of certain equipment consisting of three (3) dump trucks, which constitutes personal property necessary for the Lessee to perform essential governmental functions (collectively, the “*Equipment*”) on the terms herein provided; and

WHEREAS, in order to acquire such Equipment, the Lessee proposes to enter into that certain Master Equipment Lease/Purchase Agreement (the “*Agreement*”) with Bank of America, National Association (or one of its affiliates), as lessor (the “*Lessor*”), substantially in the proposed form presented to the Board at this meeting, and separate Equipment Schedules thereto substantially in the form attached to the Agreement; and

WHEREAS, the Board deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and separate Equipment Schedules thereunder and the other documentation relating thereto from time to time as provided in the Agreement for the acquisition, financing and leasing of the Equipment to be therein described on the terms and conditions therein and herein provided;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the governing body of the Lessee as follows:

Section 1. Findings and Determinations. It is hereby found and determined that the terms of the Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto), in the form presented to the Board at this meeting, are in the best interests of the Lessee for the acquisition financing and leasing of the Equipment.

Section 2. Approval of Documents. The form, terms and provisions of the Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto) are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by City Manager of the Lessee or other members of the governing body of the Lessee (the “*Authorized Officials*”) executing the same, the execution of such documents being conclusive evidence of such approval; and the City Manager of the Lessee is hereby authorized and directed to execute, the Agreement and any related Exhibits attached thereto and to deliver the Agreement (including such Exhibits) to the respective parties thereto.. The Authorized Officials are each hereby authorized and directed to sign and deliver on behalf of the Lessee the Agreement, each Equipment Schedule thereto under which a separate Lease (as defined in the Agreement) is created, each Payment Schedule attached thereto, any related Restricted Account Agreement and any related exhibits attached thereto if and when required; *provided, however,* that, without further authorization from the governing body of the Lessee, (a) the aggregate principal component of Rental Payments under all Leases entered into pursuant to the Agreement shall not exceed \$800,000.00 (b) the maximum term under any Lease entered into pursuant to the Agreement shall not exceed five (5) years; and (c) the maximum interest rate used to determine the interest component of Rental Payments under each Lease shall not exceed the lesser of the maximum rate permitted by law or 3.19% per annum. The Authorized Officials may sign and deliver Leases to the Lessor on behalf of the Lessee pursuant to the

Agreement on such terms and conditions as they shall determine are in the best interests of the Lessee up to the maximum aggregate principal component, maximum term and maximum interest rate provided above. The foregoing authorization shall remain in effect for a period of [two] years from the date hereof during which the Authorized Officials are authorized to sign and deliver Leases pursuant to the Agreement on the terms and conditions herein provided and to be provided in each such Lease.

Section 3. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of Final Acceptance Certificates, Restricted Account Agreements, Disbursement Requests and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement and each Lease.

Section 4. No General Liability. Nothing contained in this Resolution, the Agreement, any Lease, any Restricted Account Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement, any Lease, any Restricted Account Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under each Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

Section 5. Appointment of Authorized Lessee Representatives. The City Manager of the Lessee is each hereby designated to act as authorized representatives of the Lessee for purposes of each Lease and related Restricted Account Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Agreement and any Lease or Restricted Account Agreement.

Section 6. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 7. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency with respect to this Resolution. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 8. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the governing body of the Lessee this 21st day of July, 2022

RESOLUTION NO. R – 07 – 22 – 49

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTHMONT SCHOOL DISTRICT FOR THE PROVISION OF SCHOOL RESOURCE OFFICERS FOR THE 2022-2023 SCHOOL YEAR

WHEREAS, the Clayton Police Department and the Northmont School District have worked cooperatively over the past several years for the provision of School Resource Officers; and

WHEREAS, the Northmont School District has approached the City regarding provision of School Resource Officers for the 2022-2023 school year; and

WHEREAS, the Northmont School District has agreed to reimburse the City for additional costs associated with backfilling the assigned School Resource Officers' hours with part-time officers at a cost not to exceed \$110,000.00.

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

1. That the City Manager is authorized to enter into an Agreement in substantially similar form as the Agreement appended hereto with The Northmont School District for the provision of School Resource Officers for the 2022-2023 school year, and including the provision that the City will be reimbursed by the Northmont School District for the backfilling of the assigned School Resource Officers' hours with part-time officers at a cost not to exceed \$110,000.00 for the 2022-2023 school year.

ADOPTED BY COUNCIL ON JULY 21, 2022

RESOLUTION NO. R – 07 – 22 – 50

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR DELEGATION OF ACTIVITIES WITH THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO RELATIVE TO THE NORTHVIEW PARK ALL-INCLUSIVE PLAYGROUND PROJECT (GRANT NO. B-21-UC-39-0004)

WHEREAS, in 2021 City Staff applied for an award of CDBG funds for an all-inclusive playground project at Northview Park within Clayton; and

WHEREAS, Montgomery County awarded \$80,000.00 to Clayton for the above identified project and the City of Clayton will be providing \$100,000.00 in American Rescue Plan Act funds for said project in the form of a local match.

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

1. That the City Manager is authorized to enter into an *Agreement for Delegation of Activities* (“*Agreement*”) with the Board of County Commissioners of Montgomery County, Ohio in substantially the same form as the *Agreement* appended hereto and

relative to the award of \$80,000.00 in CDBG funds to the City of Clayton for an all-inclusive playground project at Northview Park within Clayton.

2. The City is authorized to expend \$100,000.00 in American Rescue Plan Act funds for said project in the form of a local match.

ADOPTED BY COUNCIL ON JULY 21, 2022
