

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

February 16, 2023

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### OLD BUSINESS

### RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

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#### RESOLUTION NO. R - 02 - 23 - 19

#### A RESOLUTION AUTHORIZING MIAMI VALLEY COMMUNICATIONS COUNCIL TO ACT AS THE CITY OF CLAYTON, OHIO'S GOVERNMENTAL AGGREGATOR FOR ELECTRICAL AGGREGATION

**WHEREAS**, the majority of the participating voters in the City of Clayton, Ohio have authorized the aggregation of retail electric loads located in its respective jurisdiction and to enter into service agreements to facilitate for those loads and purchase and sale of electricity; and

**WHEREAS**, this Council may exercise such authority jointly with any other legislative authorities or political subdivision of the State of Ohio; and

**WHEREAS**, the City Manager has recommended to Council that Miami Valley Communications Council ("MVCC") be authorized to act as its governmental aggregator to the full extent permitted by law, and subject to MVCC's Rules and Procedures, and the relevant governing documents, Miami Valley Communications Council Electric Power Aggregation Operation and Governance Plan, approved by the Public Utility Commission of Ohio; and

**WHEREAS**, this Council has determined this Resolution is in the best interest of the City's residents and promotes the general welfare of said citizenry.

#### **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, OHIO, AS FOLLOWS:**

**Section 1.** The Clayton City Council, Ohio hereby authorizes MVCC to act as its governmental aggregator of retail electric in accordance with Ohio law.

**Section 2.** The City Manager is hereby authorized to serve as this City's representative to MVCC's governing body for the participation and administration of utility aggregation.

**Section 3.** The City Manager is hereby authorized to select her own alternate to serve as the City's representative to MVCC's governing body in her absence.

**Section 4.** The City Manager is hereby authorized to enter into utility aggregation agreements, either directly or by and through MVCC, for periods of time up to three (3) years.

**Section 5.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

**Section 6.** This Resolution shall become effective immediately upon its passage.

ADOPTED BY COUNCIL ON FEBRUARY 16, 2023

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## NEW BUSINESS

### ORDINANCES (FIRST OF TWO READINGS)

#### ORDINANCE NO. O – 02 - 23 - 02

##### AN ORDINANCE APPROVING AMENDMENT OF SECTION 121.01 (“CITY MANAGER”) OF CHAPTER 121 OF THE CLAYTON CODIFIED ORDINANCES

**WHEREAS**, City staff has reviewed Section 121.01 of Chapter 121 of the Codified Ordinances and has recommended amendment thereto in order to increase from \$25,000.00 to \$35,000.00 the City Manager’s spending authority enumerated therein in order to advance the public health, safety and welfare of the City and to further improve efficiency of the daily operations of the City.

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

1. That the following amendments to Section 121.01 of Chapter 121 of the Clayton Codified Ordinances (“City Manager”) is hereby approved: (Additions in **bold** and deletions in ~~strikethrough~~):

##### 121.01 AUTHORITY.

The City Manager shall have the authority to make and enter into contracts, purchase equipment, supplies and materials, and authorize the performance of work and labor for the City of Clayton in amounts not more than ~~twenty~~**thirty**-five thousand dollars (**\$235,000**). When an expenditure, other than the compensation of persons employed by the City exceeds ~~twenty~~**thirty**-five thousand dollars (**\$235,000**), such expenditures shall first be authorized and directed by the ordinance or resolution of the City Council and in accordance with Charter provisions, including Section 8.02 (Ord. O-02-16-03. Passed 3-3-16.)

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2. That all other provisions of Chapter 121 which have not been modified as set forth in Section 1 of this Ordinance shall remain in full force and effect.
3. 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.
4. 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 February 16, 2023 and March 2, 2023.

5. 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 MARCH 2, 2023

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

**ORDINANCE NO. O – 02 – 23 – 03**

**AN ORDINANCE AUTHORIZING REMOVAL OF SPECIFIC ASSESSMENTS FOR TRASH COLLECTION PREVIOUSLY SUBMITTED IN ERROR TO MONTGOMERY COUNTY AUDITOR AND DECLARING AN EMERGENCY**

WHEREAS, via enactment of Ordinance No. O-08-20-12 on August 20, 2020, Council previously authorized and directed the Finance Director to certify to the Auditor of Montgomery County, Ohio, unpaid charges for trash collection on:

*Parcel M60 28510 0014, Code 31850, in the amount of \$301.85 for 2020;*  
*Parcel M60 16425 0020, Code 31850, in the amount of \$302.33 for 2020;*  
*Parcel M60 25119 0022, Code 31850, in the amount of \$304.48 for 2020;*  
*Parcel M60 16425 0026, Code 31850, in the amount of \$304.48 for 2020;*  
*Parcel M60 25416 0016, Code 31850, in the amount of \$304.48 for 2020;*

WHEREAS, the above assessments were certified in error and Council therefore desires to remove said charges.

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

1. That Council hereby approves and authorizes removal of the trash collection charges on *the following Parcels* which were listed in error:

*Parcel M60 28510 0014, Code 31850, in the amount of \$301.85 for 2020;*  
*Parcel M60 16425 0020, Code 31850, in the amount of \$302.33 for 2020;*  
*Parcel M60 25119 0022, Code 31850, in the amount of \$304.48 for 2020;*  
*Parcel M60 16425 0026, Code 31850, in the amount of \$304.48 for 2020;*  
*Parcel M60 25416 0016, Code 31850, in the amount of \$304.48 for 2020;*

2. *That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.*

3. 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.

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

5. That unless these assessments placed in error are immediately removed from the Auditor records, the public peace, health, safety and welfare will be detrimentally affected because the removal thereof would be unnecessarily delayed as the charges were placed in error and should be removed as expeditiously as possible to reflect actual circumstances. Accordingly, pursuant to 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 FEBRUARY 16, 2023

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

### **RESOLUTION NO. R – 02 – 23 – 21**

#### **A RESOLUTION RE-APPOINTING CHRISTINE BACHMAN AS A MEMBER OF THE LOCAL BOARD OF TAX REVIEW**

**WHEREAS**, Clayton Codified Ordinance Section 183.18 provides for the establishment and maintenance of a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718; and

**WHEREAS**, Clayton Codified Ordinance Section 183.18 requires the legislative authority of the City of Clayton to appoint two members to the Local Board of Tax Review who must be domiciled within the City of Clayton and may not be employees, elected officials, or contractors with the City of Clayton at any time during their term or in the five years immediately preceding the date of appointment; and

**WHEREAS**, the term of Christine Bachman on the Tax Review Board expires March 7, 2023 and Council desires to re-appoint Christine Bachman as a member of the Local Board of Tax Review.

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

1. That Christine Bachman is hereby re-appointed to the Local Board of Tax Review for a 2-year term commencing March 8, 2023 and ending March 7, 2025.

ADOPTED BY COUNCIL ON FEBRUARY 16, 2023

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### **RESOLUTION NO. R – 02 – 23 – 22**

#### **A RESOLUTION RE-APPOINTING TOM WALKER AS A MEMBER OF THE LOCAL BOARD OF TAX REVIEW**

**WHEREAS**, Clayton Codified Ordinance Section 183.18 provides for the establishment and maintenance of a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718; and

**WHEREAS**, Clayton Codified Ordinance Section 183.18 requires the legislative authority of the City of Clayton to appoint two members to the Local Board of Tax Review who must be domiciled

within the City of Clayton and may not be employees, elected officials, or contractors with the City of Clayton at any time during their term or in the five years immediately preceding the date of appointment; and

**WHEREAS**, the term of Tom Walker on the Tax Review Board expires March 7, 2023 and Council desires to re-appoint Tom Walker as a member of the Local Board of Tax Review to fill the vacant seat.

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

1. That Tom Walker is hereby reappointed to the Local Board of Tax Review for a 2-year term commencing March 8, 2023 and ending March 7, 2025.

ADOPTED BY COUNCIL ON FEBRUARY 16, 2023

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**RESOLUTION NO. R - 02 - 23 - 23**

**A RESOLUTION AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-300 IN PRINCIPAL AMOUNT NOT TO EXCEED \$166,650.99 BETWEEN CITY OF CLAYTON, OHIO AND THE HUNTINGTON NATIONAL BANK AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH**

**WHEREAS**, the City of Clayton, Ohio (the “Lessee”) is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of Ohio; and

**WHEREAS**, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and

**WHEREAS**, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in Attachment 2 to the Lease is appropriate and necessary to the function and operations of the Lessee; and

**WHEREAS**, The Huntington National Bank, (the “Lessor”) shall act as Lessor under said Lease; and

**WHEREAS**, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State.

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

Section 1. The Lessee, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the City Manager of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee (*Exhibit A*) with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates

and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. The Lessee's obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of Ohio.

Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified, and approved.

Section 5. As to said Lease, the Municipality reserves the right to consider for approval at a future date the issuance of not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the fiscal year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED BY COUNCIL ON FEBRUARY 9, 2023

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**RESOLUTION NO. R – 02 – 23 - 24**

**A RESOLUTION AUTHORIZING THE CITY MANAGER AND FINANCE DIRECTOR TO ENGAGE PLATTENBURG & ASSOCIATES, INC. TO AUDIT THE BASIC FINANCIAL STATEMENTS OF THE CITY FOR THE YEARS ENDING DECEMBER 31, 2022 THROUGH 2026 AT A COST NOT TO EXCEED \$28,900.00 ANNUALLY**

**WHEREAS**, Clayton Charter Section 8.02(C)(3)(g) permits Council to exempt "professional services . . . not to exceed One Hundred Fifty Thousand Dollars" from competitive bidding requirements; and

**WHEREAS**, the City has received a proposal from Plattenburg & Associates, Inc. for professional accounting assistance to audit the 2022-2026 Comprehensive Annual Financial Reports (CAFR); and

**WHEREAS**, Council desires to engage Plattenburg & Associates, Inc. to provide said accounting assistance substantially in accordance with the provisions of the Contract appended hereto as *Exhibit A*.

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

1. That the City Manager and Finance Director are hereby authorized to enter into a Professional Services Agreement with Plattenburg & Associates, Inc. in substantially the same form appended hereto as *Exhibit A*, to provide accounting services consistent with the attached Scope of Services and in an amount not to exceed \$28,900.00 per year for the years 2022-2026.

ADOPTED BY COUNCIL ON FEBRUARY 16, 2023

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**RESOLUTION NO. R – 02 – 23 - 25**

**A RESOLUTION TO AUTHORIZE AND APPROVE PURCHASE ORDER**

**WHEREAS**, for purposes of complying with State Auditor accounting methods confirmation is required that monies had been appropriated for certain expenditures at the time the following were approved.

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

1. That upon report and confirmation from the City of Clayton Finance Director, Council hereby certifies that funds had been appropriated and monies were available for payment of the following purchases at the time they were entered into and remain available as of the date of this enactment:

<b>Order Date</b>	<b>Vendor</b>	<b>Amount</b>	<b>Item</b>
<b>November 9, 2022-February 2, 2023</b>	<b>Kinard Lang</b>	<b>\$5,059.85</b>	<b>Fire Department Grievance Arbitration Services</b>

2. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to comply with the obligations reflected by said Orders and evidence same on the books and financial record of the City.

ADOPTED BY COUNCIL ON FEBRUARY 16, 2023

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