

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

March 16, 2023

OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS)

ORDINANCE NO. O – 03 – 23 – 04

AN ORDINANCE APPROVING CONSTRUCTION OF STREET LIGHTING IMPROVEMENTS IN AND TO ADOPT ASSESSMENTS FOR ANNUAL LIGHTING CHARGES UPON LOTS LOCATED WITHIN HUNTER’S PATH, SECTION ONE, IN THE CITY OF CLAYTON, OHIO

WHEREAS, by Resolution No. R-02-23-17, enacted February 2, 2023, (“Resolution of Necessity”) and in accordance with Ohio Revised Code Section 727.12, Council declared the necessity of constructing street lighting improvements; and

WHEREAS, in accordance with Ohio Revised Code Section 727.13, notice of the passage of the Resolution of Necessity and the filing of the estimated assessment under Section 727.12 of the Revised Code was served upon the owners of the lots and/or parcels of land to be assessed for the proposed improvement by certified mail; and

WHEREAS, no objections were made or requests for the creation of an Assessment Equalization Board under Ohio Revised Code Section 727.16 nor have claims been received pursuant to Ohio Revised Code Section 727.18 by any owner of a lot or parcel of land asserting that the owner will sustain damages by reason of the proposed improvement; and

WHEREAS, Council desires and hereby declares its intent to proceed with approval of the construction of the street lighting improvements in accordance with the provisions of the Resolution of Necessity and impose the required assessments for said improvements.

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

1. That the City hereby approves construction of the street lighting improvements in Hunter’s Path, Section One, in accordance with the plans, specifications and assessments, rates and charges provided for in the Resolution of Necessity duly enacted by Council on February 2, 2023, under the authority of Ohio Revised Code Chapter 727.
2. That the assessments prepared and filed in accordance with the Resolution of Necessity passed under Ohio Revised Code Section 727.12 and on file in the Clayton Government Center are hereby ratified, confirmed and adopted.
3. That as no claims for damages were filed in accordance with Ohio Revised Code Section 727.18, pursuant to that Section of the Code, such claims are deemed waived and therefore barred.
4. That this Council hereby declares it necessary for the preservation and promotion of the public health and welfare, for the reasons set forth in the preambles hereof, to enter into an agreement

with AES/Miami Valley Lighting LLC for full-service lighting and to assess the accumulated annual charge estimated to be **\$4,557.60** against the lots in Hunter's Path, Section One.

5. The lots or parcels of land to be assessed for the Hunter's Path, Section One, Street Lighting Improvement Project are: All of the Properties located within Hunter's Path, Section One, located in Section 29, Town 5, Range 5 East, City of Clayton, Montgomery County, Ohio and as further described in the attached Petition (**Exhibit A**) and Lot Map (**Exhibit B**).

6. The Hunter's Path Section One, Street Lighting Improvement Project is estimated to consist of installation and trenching of ten (10) light poles and fixtures at a developers cost of **\$107,900** and total annual lighting charges for said ten (10) poles and fixtures of **\$4,557.60** to be assessed as delineated herein with no portion of the improvement to be paid by the City.

7. The boundaries of the area to be assessed include all properties within Hunter's Path, Section One.

8. The Improvements are more particularly described and set out in the plans, specifications, estimates of cost, rates, charges and tentative assessments which are on file in the Clayton Government Center, 6996 Taywood Road, Englewood, Ohio, 45322 where they may be examined and which plans, specifications, estimates of costs, rates, charges and tentative assessments are hereby approved.

9. That the total annual lighting charge is estimated to be **\$4,557.60** and shall be funded as follows:

- (a) The portion to be specially assessed to property owners on an annual basis totals **\$4,557.60 - \$69.05 per parcel**, as adjusted to reflect increases in future years, in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

10. The City does not intend to issue securities in anticipation of the levy of the assessments. The City does not intend to issue securities in anticipation of the collection of the assessments.

11. That the assessments against each parcel of property subject to assessment shall be prepared and filed in the office of the Clerk of Council and shall be open for inspection during regular business hours.

12. That Notice of the passage of this Ordinance shall, after the assessment has been made and filed as provided herein be served by the Clerk of Council, or a person designated by the clerk, upon the owners of the lots or parcels of land to be assessed for the Improvements, by Certified Mail, RRR, addressed to such owner at his/her last known address or to the address to which tax bills are sent.

13. That a certified copy of this Ordinance shall be filed with the Montgomery County Auditor.

14. 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.

15. 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 March 2, 2023 and March 16, 2023.

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

ORDINANCE NO. O – 03 – 23 – 05

AN ORDINANCE APPROVING AMENDMENTS TO THE CITY’S PERSONNEL PRACTICES MANUAL AT ARTICLE 3, SECTION K (“PROBATION”) AND ARTICLE 6, ADDING SUBSECTION Q THERETO (“MILITARY LEAVE OF ABSENCE POLICY”)

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 3, Section K of the Personnel Practices Manual as shown on the attached *Exhibit A*; and

WHEREAS, the City Staff has recommended amendment of Article 6 of the Personnel Practices Manual to include Section Q -Military Leave of Absence Policy- 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 3, Section K, and Article 6 of the City’s Personnel Practices Manual are 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 March 2, 2023 and March 16, 2023.
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 MARCH 16, 2023

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 03 – 23 – 28

A RESOLUTION AUTHORIZING THE CITY OF CLAYTON, OHIO TO PARTICIPATE IN NEW NATIONAL OPIOID SETTLEMENTS WITH TEVA, ALLERGAN, CVS, WALGREENS AND WALMART AND FURTHER AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE CITY OF CLAYTON, OHIO, TO EXECUTE AND DELIVER SETTLEMENT PARTICIPATION FORMS AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTATION FOR PARTICIPATION IN SAID OPIOID SETTLEMENTS

WHEREAS, the City of Clayton, Ohio (herein “Municipality”) is a municipal entity formed and organized pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, the City of Clayton, Ohio has previously adopted and affirmed its adoption of, a OneOhio Memorandum of Understanding (“MOU”) relating to the allocation and the use of the proceeds of any potential opioid settlements described; and

WHEREAS, the Council understands that an additional purpose of the MOU is to create an effective means of distributing any potential settlement funds obtained under the MOU between the State of Ohio and Local Governments in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Ohio, as well as to permit collaboration and explore potentially effectuation earlier resolution of the Opioid Litigation against Opioid Pharmaceutical Supply Chain Participants; and

WHEREAS a new National Opioid settlement proposal is being presented by Teva, Allergan, CVS, Walgreens and Walmart to resolve governmental entity claims in the State of Ohio using the structure of the OneOhio MOU; and

WHEREAS, Council wishes to agree to the material terms of the proposed new National Opioid settlement proposal being presented by Teva, Allergan, CVS, Walgreens and Walmart and further authorize the City Manager, on behalf of the City of Clayton, Ohio, to execute and deliver the Settlement Participation Forms appended hereto as *Exhibit A* and further authorize the City Manager to execute any additional necessary documentation in order for the City of Clayton, Ohio to participate in the new National Opioid settlement proposal presented by Teva, Allergan, CVS, Walgreens and Walmart.

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

1. That the Council of the City of Clayton, Ohio hereby accepts the Proposed Settlement on behalf of the City of Clayton, Ohio, with respect to the new National Opioid settlement proposal presented by Teva, Allergan, CVS, Walgreens and Walmart. The City Manager, on behalf of the City of Clayton, Ohio, is authorized to execute and deliver the Settlement Participation Forms appended hereto as *Exhibit A* and the City Manager is further authorized to execute any additional necessary documentation for the City of Clayton, Ohio

to participate in the new National Opioid settlement proposal presented by Teva, Allergan, CVS, Walgreens and Walmart.

2. That it is found and determined that all formal actions of the Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that 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.
3. This Resolution shall be effective immediately upon its adoption.

ADOPTED BY COUNCIL ON MARCH 16, 2023

RESOLUTION NO. R – 03 – 23 – 29

A RESOLUTION APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE MIAMI VALLEY COMMUNICATIONS COUNCIL ELECTRIC AGGREGATION PROGRAM FOR THE PURPOSE OF ESTABLISHING AND IMPLEMENTING AN ELECTRIC PROGRAM

WHEREAS, this Council enacted legislation authorizing the City to establish an electric aggregation program pursuant to Section 4928.20, Ohio Revised Code (the “Aggregation Programs”) for the residents, businesses and other electric consumers in the City, and for that purpose, to act jointly with any other municipal corporation, township, or county or other political subdivision of the State of Ohio, as permitted by law; and

WHEREAS, by joining the Miami Communications Council (“MVCC”), the City will be able to act jointly with other member political subdivisions and thereby maximize the potential benefits of electric deregulation through group purchasing efforts; and

WHEREAS, this Council pursuant to Section 4928.20, Ohio Revised Code, has held two (2) public hearings on the Plan of Operation and Governance for the MVCC electric aggregation program.

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

Section 1. It is hereby found and determined that this Council held two (2) public hearings, with the first hearing taking place on the 16th day of March 2023, and the second hearing taking place on the 16th day of March 2023, with each hearing meeting the necessary notice requirements as set forth in Section 4928.20, Ohio Revised Code.

Section 2. This Council hereby approves and adopts the Plan of Operation and Governance of the MVCC electric aggregation program to this Council and on file with the Clerk, with a copy of said Plan attached substantially similar form as **Exhibit A**.

Section 3. This Council hereby joins MVCC to act jointly with other member and affiliate political subdivisions for the acquisition and aggregation of electric supply.

Section 4. 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 5. This Resolution shall become effective immediately upon its passage.

ADOPTED BY COUNCIL ON MARCH 16, 2023

RESOLUTION NO. R. – 03 – 23 – 30

A RESOLUTION APPROVING A MASTER EQUITY LEASE AGREEMENT WITH ENTERPRISE FM TRUST BY ENTERPRISE FLEET MANAGEMENT, INC. FOR THE LEASE AND PURCHASE OF VEHICLES FOR USE BY THE CITY OF CLAYTON, OHIO

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

WHEREAS, pursuant to applicable law, the City Council as governing body of the Municipality (the “Governing Body”) is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality; and

WHEREAS, the Council of the City of Clayton, Ohio hereby finds and determines that the execution of a Master Equity Lease Agreement (“Lease”) with Enterprise FM Trust by Enterprise Fleet Management, Inc. is appropriate and necessary to the functions and operations of the Municipality.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON AS GOVERNING BODY OF THE MUNICIPALITY:

Section 1. The City Manager, acting on behalf of the City of Clayton, Ohio, is hereby authorized to negotiate, enter into, execute, and deliver a Master Equity Lease Agreement in substantially the form set forth in the document presently before City Council (*Exhibit A*), with such modifications thereto approved by the Law Department, which document is available for public inspection at the office of the Municipality. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized.

Section 2. The Municipality’s obligations under the Lease(s) shall be subject to annual appropriation or renewal by City Council and the Municipality’s obligations under the Lease(s) shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 3. As to each 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 4. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED BY COUNCIL ON MARCH 16, 2023

RESOLUTION NO. R – 03 – 23 – 31

**A RESOLUTION APPROVING AMENDMENT OF 2023 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 2023 Appropriations and Estimated Resources with respect to the Police Fund (201).

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 *operating or personnel expenses as noted below:*

<u>Fund</u>	<u>Estimated Resource Amount</u>	<u>Appropriation Amount</u>
Police (201)	\$11,136.09	\$11,136.09 (Operating)

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 MARCH 16, 2023
