

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES December 18, 2023

OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS)

ORDINANCE NO. O – 12 – 23 – 27

AN ORDINANCE APPROVING A TWENTY PERCENT (20%) INCREASE OF THE COMPETITIVE BID THRESHOLD PURSUANT TO CITY CHARTER SECTIONS 8.02(B) AND 8.02(C)(1)

WHEREAS, Section 8.02(B) of the City of Clayton Charter states, “When any expenditure or contract is required to be competitively bid under the provisions of this Charter or ordinance or resolution of Council, the City Manager may solicit competitive bids without the prior approval of Council. All solicitations for submittal of bids shall be advertised once a week for at least two weeks in a newspaper of general circulation in the City. The award shall be made by the City Manager after approval by majority vote of Council to the lowest and best, responsive bid submitted by a responsible bidder. The City shall have the right to waive defects in a bid and to reject any and all bids.”; and

WHEREAS, Section 8.02(C)(1) of the City of Clayton Charter states, “In the fiscal year this Charter is in effect, the amount of an expenditure or contract which shall require bidding under Division (B) shall be fifteen thousand dollars or more. Thereafter Council may by ordinance increase the amount by twenty percent once each year, but the amount fixed by council shall not exceed twice the statutory amount for which general Ohio statutory plan cities are required to engage in competitive bidding;” and

WHEREAS, City staff has recommended and Council desires to approve a twenty percent increase in the competitive bidding threshold from \$64,498.00 (approved by Council via Ordinance No. O-02-21-01 on February 18, 2021) to \$77,398.00 in accordance with Charter Sections 8.02(B) and 8.02(C)(1).

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

1. That, pursuant to City of Clayton Charter Sections 8.02(B) and 8.02(C)(1), the competitive bid threshold is hereby increased by twenty percent from \$64,498.00 to \$77,398.00.
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 December 7, 2023 and December 18, 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 DECEMBER 18, 2023

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – ZC – 23 – 04

A RESOLUTION ADOPTING THE RECOMMENDATION OF THE PLANNING COMMISSION TO APPROVE, WITH SPECIFIED CONDITIONS, THE REQUEST FOR MODIFICATION OF THE FINAL DEVELOPMENT PLAN FOR PHASE II OF THE VILLAGE OF NORTH CLAYTON

WHEREAS, a request for a modification of the Final Development Plan for Phase II of the Village of North Clayton was submitted by applicant, Bella Sorella Pizza Company, LLC, said request being to permit construction of a new restaurant on an existing parcel of land consisting of 3.7884 acres and located at the corner of National Road and Proaction Drive and bearing Parcel I. D. No. M60 03102 0112 and;

WHEREAS, the City of Clayton, the owner of the subject parcel of land, has presented a duly executed Affidavit expressing it has no objection to and consents to the requested modification; and

WHEREAS, the Clayton Planning Commission held a public hearing on November 27, 2023, on said 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 November 27, 2023, recommended approval of the said requested modification to permit construction of a new restaurant on an existing parcel of land consisting of 3.7884 acres and located at the corner of National Road and Proaction Drive and bearing Parcel I. D. No. M60 03102 0112 with the following requirements:

The applicant satisfies all of City staff's comments/ recommendations as delineated in the Staff Report dated November 20, 2023 and submitted to the Planning Commission at its November 27, 2023 meeting, including, but not limited to, having the address size and location approved by the Clayton Police Department; and the applicant will submit stormwater and landscaping plans to City staff as part of the final zoning permit approval process; and the applicant will have the Clayton Fire Department review and approve all applicable fire suppression, fire alarm, and egress/path emergency lighting plans when applicant submits for final building permits.

WHEREAS, the Clayton City Council held a public hearing on December 18, 2023, on said modification request at which time any and all persons were given an opportunity to be heard thereon, and;

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

1. That the request for a modification of the Final Development Plan for Phase II of the Village of North Clayton to permit construction of a new restaurant on an existing parcel of land consisting of 3.7884 acres and located at the corner of National Road and Proaction Drive and bearing Parcel I. D. No. M60 03102 0112 recommended for approval by the Clayton Planning Commission, subject to the following requirements:

The applicant satisfies all of City staff's comments/ recommendations as delineated in the Staff Report dated November 20, 2023 and submitted to the Planning Commission at its November 27, 2023 meeting, including, but not limited to, having the address size and location approved by the Clayton Police Department; and the applicant will submit stormwater and landscaping plans to City staff as part of the final zoning permit approval process; and the applicant will have the Clayton Fire Department review and approve all applicable fire suppression, fire alarm, and egress/path emergency lighting plans when applicant submits for final building permits.

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 Resolution or which imposes additional requirements for effectiveness or validity.

ADOPTED BY COUNCIL ON DECEMBER 18, 2023

NEW BUSINESS

ORDINANCES: COUNCIL VOTED TO TABLE THE FOLLOWING ORDINANCE:

ORDINANCE NO. O – 12 – 23 – 28

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SELL A 3.7884 ACRE PARCEL OF PROPERTY LOCATED AT THE CORNER OF NATIONAL ROAD AND PROACTION DRIVE AND BEARING PARCEL I.D. NO. M60 03102 0112 TO BELLA SORELLA PIZZA COMPANY, LLC FOR A PRICE OF TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) AND SUBJECT TO THE PROVISIONS CONCERNING FORGIVENESS OF THE LOAN FOR THE PURCHASE PRICE IN RETURN FOR MAINTAINING AN AGREED LEVEL OF EMPLOYMENT AND OTHER CONDITIONS AS CONTAINED WITHIN A CERTAIN PURCHASE AND SALE AGREEMENT WITH THE PURCHASER AND DECLARING AN EMERGENCY

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution and Clayton Charter Article II permit the City to exercise all powers of local self-government; and

WHEREAS, Clayton Charter Section 5.04(B)(10) designates the City Manager as chief executive and administrator and authorizes the City Manager to execute on behalf of the City all contracts and agreements; and

WHEREAS, Council has designated the position of Development Director to assist the Mayor and City Manager and to coordinate functions and engage in negotiations related to economic and community development; and

WHEREAS, the City Manager and Development Director with input and guidance from Clayton City Council have successfully negotiated an arrangement with Bella Sorella Pizza Company, LLC for the sale to Bella Sorella Pizza Company, LLC of a 3.7884 acre parcel of property (“Subject Property” or “Property”) located at the corner of National Road and Proaction Drive and bearing Parcel I. D. No. M60 03102 0112; and

WHEREAS, Bella Sorella Pizza Company, LLC intends to construct a restaurant at the Subject Property which restaurant will initially employ approximately 12 employees (and eventually at least 18 employees) with an initial annual payroll of at least \$375,000.00; and

WHEREAS, the construction and operation of said restaurant will provide significant benefits to the City of Clayton, and the Northmont Community as well as to Montgomery County; and

WHEREAS, the Subject Property has been available for sale or development, but has been unused since being acquired by the City and in its current state is not needed for municipal purposes; and

WHEREAS, the terms of the sale, including provisions for the forgiveness of the \$200,000.00 purchase price over a five-year period conditioned upon the maintaining of specified payroll and employment levels and other conditions, are contained within the Purchase and Sale Agreement appended hereto; and

WHEREAS, without immediate approval and execution of the Purchase and Sale Agreement, the purchase of the 3.7884 acre tract cannot proceed, the City cannot enter into the Purchase and Sale Agreement with Bella Sorella Pizza Company, LLC, and benefits that would otherwise be available to the residents of the City of Clayton will be delayed or otherwise placed at risk.

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

1. That Council hereby finds and determines the Subject Property is no longer needed for municipal purposes and the City Manager is hereby authorized to execute a Purchase and Sale Agreement in a form substantially similar to the attachment hereto (**Exhibit A**) (with such modifications as deemed appropriate by the Law Department), with Bella Sorella Pizza Company, LLC for the sale of a 3.7884 acre tract of property located at the corner of National Road and Proaction Drive and bearing Parcel I.D. No. M60 03102 0112 at a price of Two Hundred Thousand Dollars (\$200,000.00). The City Manager is further authorized to pay closing costs, if any, as specified by the applicable purchase contract(s) and settlement statements (said additional costs not to exceed the spending authority granted to the City Manager per Clayton Codified Ordinance Section 121.01) in order to effectuate the sale of said Property and to transfer at closing said Property. The City Manager and Finance Director are authorized to execute all documents

and take all necessary actions to close on said Property.

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(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.
4. That, immediate approval of the sale of the Subject Property is necessary and will result in the prompt construction of material improvements to the Subject Property, the hiring of substantial numbers of new employees, the increase of tax revenues to the City, and enhancement to the economic health, safety, and welfare of the Clayton Community at large. 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 DECEMBER 18, 2023

ORDINANCES (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 12 – 23 – 29

AN ORDINANCE AUTHORIZING AMENDMENTS TO DESIGNATION OF JOB CATEGORIES AND PAY SCHEDULES AND DECLARING AN EMERGENCY

WHEREAS, Section 3.01(D) of the Clayton Charter provides that Council may authorize the creation of positions of employment and set their rates of compensation; and

WHEREAS, an Organization Chart and revised pay tables have been prepared by the City Manager, reviewed by the Finance Director and recommended for approval by the City Manager.

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

1. That the Organization Chart and Pay Table(s) appended hereto as *Exhibit A* be and hereby are authorized and approved with the Pay Tables to be effective the first full payroll period in January, 2024.
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(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.

4. That, unless prompt implementation of pay rates for personnel can be achieved so as to ensure continued provision of City services, 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 DECEMBER 18, 2023

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 12 – 23 – 72

A RESOLUTION IMPOSING AN IMMEDIATE MORATORIUM ON THE ISSUING AND PROCESSING OF PERMITS ALLOWING RETAIL DISPENSERIES, CULTIVATORS, OR PROCESSORS OF ADULT USE MARIJUANA WITHIN THE CITY OF CLAYTON, OHIO

WHEREAS, Ohio voters approved State Issue 2 on November 7, 2023 adopting proposed legislation authorizing the cultivation, sale, and use of marijuana products for recreational purposes; and,

WHEREAS, pursuant to the operation of Article II, Section 1b of the Ohio Constitution, the proposed legislation now approved by Ohio voters will automatically be incorporated into the Ohio Revised Code as Sections 3780.01 through 3780.99 and become effective on December 7, 2023 with no further action required by the Ohio General Assembly (the “Act”); and,

WHEREAS, upon the passage of Issue 2, members of the Ohio General Assembly have already expressed an intention to amend the Act but have not yet clarified whether the Act will be repealed, modified, or materially altered; and,

WHEREAS, Section 3780.03 of the Act provides that a newly created “Division of Cannabis” shall adopt rules establishing standards and procedures for the implementation of the adult use marijuana program, including licensing requirements for cultivators, processors, and retailers; and

WHEREAS, the Act, as currently constituted, provides the Division of Cannabis a period of nine months after December 7, 2023 to implement rules and regulations regarding the adult use marijuana program; and

WHEREAS, pursuant to the Ohio Constitution and local ordinances, City Council possesses the inherent power to enact appropriate planning, zoning, and business regulation laws that further the health, safety, welfare, comfort and peace of its citizens, including restricting, prohibiting and/or regulating certain business uses; and

WHEREAS, City staff requires time to make informed recommendations to Council regarding potential changes to the City’s Codified Ordinances based on Council’s determination whether to allow, limit, or prohibit adult use cannabis operators within the City of Clayton; and

WHEREAS, a moratorium on adult use cannabis as specified herein within the City will allow Council and staff time to accomplish the City’s goals stated herein and will help ensure the public peace, health, safety, and welfare.

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

Section 1: Council hereby imposes an immediate moratorium on the issuance and processing of any permits for operators, cultivators, processors, and retail dispensaries of adult use marijuana as defined in Sections 3780.01 through 3780.99 of the Ohio Revised Code.

Section 2: The purpose of this moratorium is to allow the City Administration and Council to consider amendments to pertinent Codified Ordinances, including the Clayton Zoning Code, to prepare regulations which may be necessary, and to determine where and whether to allow, limit, or prohibit cultivators, processors, and retail dispensaries in the City.

Section 3. Council hereby directs and orders that no permits for cultivators, processors or retail dispensaries of adult use marijuana shall be issued or processed by the City during the moratorium.

Section 4. The moratorium shall be in effect for a period beginning from the effective date of this Resolution through the earlier of June 15, 2024, until changes are enacted to amend the Codified Ordinances of the City of Clayton to address these issues, or until Council approves legislation explicitly revoking this moratorium, whichever occurs first.

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

ADOPTED BY COUNCIL ON DECEMBER 18, 2023

RESOLUTION NO. R – 12 – 23 – 73

A RESOLUTION AUTHORIZING THE PURCHASE OF A LUCAS DEVICE AND A POWER STAIR CHAIR FROM STRYKER MEDICAL EMERGENCY CARE FOR USE BY THE FIRE DEPARTMENT AT A TOTAL COST TO THE CITY OF CLAYTON NOT TO EXCEED \$9,743.67, AND THE REMAINING COST THEREOF TO BE PAID WITH BWC GRANT FUNDS

WHEREAS, Charter Section 8.02(C)(1) and Ordinance No. O-02-21-02 adopted on February 18, 2021 exempt from competitive bidding requirements purchases which are less than \$64,498.00; and

WHEREAS, the Fire Department has requested and recommended the purchase of one (1) Lucas Device and one (1) power stair chair from Stryker Medical Emergency Care for use by the Fire Department; and

WHEREAS, the total cost of said equipment is \$38,974.69, the majority of which will be paid with BWC grant funds, and the City of Clayton will pay an amount not to exceed \$9,743.67 toward said purchases.

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

1. That the City Manager is authorized to purchase (1) Lucas Device and one (1) power stair chair from Stryker Medical Emergency Care for use by the Fire Department at a cost not to exceed \$38,974.67, a portion of which will be paid with BWC grant funds and the City of Clayton will pay an amount not to exceed \$9,743.67 toward said purchases.

ADOPTED BY COUNCIL ON DECEMBER 18, 2023

RESOLUTION NO. R – 12 – 23 – 74

**A RESOLUTION TO AUTHORIZE AND APPROVE THE 2024 BUDGET
AND PERMANENT APPROPRIATIONS**

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, the City Manager and Finance Director have prepared and presented the 2024 Budget and Permanent Appropriations for the City of Clayton.

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

1. That the 2024 Budget appended hereto as *Exhibit A* and made a part hereof is hereby authorized and approved.
2. That the appropriations by fund and appended hereto and made a part hereof are hereby authorized and approved for 2024.
3. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to affect such appropriations and evidence same on the books and financial record of the City.

ADOPTED BY COUNCIL ON DECEMBER 18, 2023

RESOLUTION NO. R – 12 – 23 – 75

A RESOLUTION APPROVING TRANSFER OF FUNDS

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, the Finance Director has requested a transfer of funds from the General Fund (101) to the Debt Service Fund (933) as indicated herein.

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

1. That the following transfers of funds are hereby approved as indicated:

Transfer Out	Transfer In	Amount
General (101)	Debt Service (933)	\$68,405.72

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 DECEMBER 18, 2023

RESOLUTION NO. R – 12 – 23 – 76

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 2022 Appropriations and Estimated Resources with respect to the General Fund (101), Cemetery Fund (601), JEDD Fund (703), Debt Service Fund (953), and Agency Fund (954).

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>
General (101)	\$29,337	\$6,581 (Operating) \$9,790 (Personnel)
Cemetery (601)		\$50 (Operating)
JEDD (703)	(\$192,202.44)	\$60,600 (Operating)
JEDD Tax (953)	\$55,000	\$55,000 (Operating)
Agency (954)	\$254.10	\$254.10 (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 DECEMBER 18, 2023
