

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

January 18, 2024

OLD 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.

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 01 – 24 – 10

**A RESOLUTION PURSUANT TO CLAYTON CHARTER SECTION 12.12(D)
SUPPORTING THE CITY OF CLAYTON INCOME TAX LEVY TO BE PLACED ON
THE MARCH 19, 2024 BALLOT**

WHEREAS, on November 16, 2023, Council adopted legislation and directed the Clerk of Council to submit said legislation to the Montgomery County Board of Elections to conduct an election on March 19, 2024, on the issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit; and

WHEREAS, Clayton Charter Section 12.12(D) provides, “The City, through action of Council, may financially support the passage of or opposition to issues, that in Council’s opinion, affect the operation and/or well being of the City. City employees and officials may be authorized by Council to engage in activities related to the passage of or opposition to such issues. The City shall not provide financial support to any political parties or candidates for office.”; and

WHEREAS, in accordance with Clayton Charter Section 12.12(D) and the holdings of the Courts in *Lash v. City of Union*, 104 F. Supp.2d 866 (1999) and *Kidwell v. City of Union*, 462 F.3d 620 (2006), City Council hereby finds and determines that passage of the proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit is “germane to the fundamental function of local government” and passage of said ballot issue will affect the operation and/or well-being of the City; and Council therefore desires to authorize support of the passage of the aforementioned proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit.

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

1. That the Clayton Council, in accordance with Charter Section 12.12(D), hereby authorizes the City Manager and her authorized designees to take such actions as are necessary to financially support the passage of the aforementioned proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit. Further, in accordance with Charter Section 12.12(D), City employees and officials are authorized to engage in activities related to the passage of the aforementioned proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit.

ADOPTED BY COUNCIL ON JANUARY 18, 2024

RESOLUTION NO. R – 01 – 24 – 11

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE PROPOSAL OF AND ENTER INTO AN AGREEMENT WITH CHOICE ONE ENGINEERING CORPORATION FOR PROFESSIONAL ENGINEERING SERVICES FOR THE MAIN STREET SIDEWALK PROJECT MOT-SR 48 20.61, PID 119822 AND AT A COST TO THE CITY OF CLAYTON NOT TO EXCEED \$49,700.00

WHEREAS, Charter Section 8.02(C)(3)(g) exempts professional services not to exceed \$150,000.00 from competitive bidding; and

WHEREAS, City staff issued a request for qualifications in design and engineering for the Main Street Sidewalk Project MOT-SR 48 20.61, PID 119822 (“Project”) and received proposals from and reviewed five engineering firms; and

WHEREAS, following review of the said proposals and qualifications, City staff has recommended Choice One Engineering Corporation to perform the engineering and related services for the Project.

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

1. That the City Manager is authorized to accept the proposal of and enter into an agreement with Choice One Engineering Corporation for professional engineering and related services for the Main Street Sidewalk Project MOT-SR 48 20.61, PID 119822 at a cost to the City of Clayton not to exceed \$49,700.00.

ADOPTED BY COUNCIL ON JANUARY 18, 2024

RESOLUTION NO. R – 01 – 24 – 12

A RESOLUTION TO DECLARE SURPLUS EQUIPMENT AVAILABLE FOR DISPOSAL THROUGH SALE OR AUCTION

WHEREAS, R.C. 721.01 permits a municipal corporation to sell or lease property no longer needed for municipal purposes; and

WHEREAS, City staff and the City Manager have advised the items identified on the attached **Exhibit A** are no longer needed for municipal purposes.

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

1. That the specific property referenced on the attached **Exhibit A** are hereby declared to be surplus and available for disposition by the City Manager through sale or auction including: (a) internet auction including but not limited to Municibid and/or GovDeals; (b) public auction; and (c) pricing of said property and advertising for direct sale through trade publications.

ADOPTED BY COUNCIL ON JANUARY 18, 2024
