



**CITY OF HUBER HEIGHTS  
STATE OF OHIO  
City Council Meeting  
Regular Session  
August 26, 2019  
7:00 P.M.**

1. **Call The Meeting To Order - Mayor Jeff Gore**
2. **Invocation - Pastor Randy Griffith Of The Free Methodist Church At 6875 Old Troy Pike, Huber Heights, Ohio**
3. **Pledge Of Allegiance**
4. **Roll Call**
5. **Approval Of Minutes**
  - A. City Council Meeting Minutes - August 13, 2019
6. **Special Presentations/Announcements**
  - A. New Hire Swearing In Presentation For Huber Heights Fire Division Personnel - Fire Chief Mark Ashworth And Mayor Jeff Gore
  - B. Mayoral Proclamation Presentation To Sergeant Jaelen R. Bobo, Miami Valley Young Marines - Mayor Jeff Gore
  - C. Mayoral Proclamation Presentation To Master Sergeant John P. Sollinger, Miami Valley Young Marines - Mayor Jeff Gore
  - D. Miami Valley Young Marines Flag Dedication Mayoral Proclamation Presentation - Mayor Jeff Gore
7. **Citizens Comments**

8. **Citizens Registered to Speak on Agenda Items**

9. **City Manager Report**

10. **Pending Business**

- A. An Ordinance Adopting And Approving A Revised Public Records Policy For The City Of Huber Heights Consistent With The Ohio Public Records Law.  
(second reading)

11. **New Business**

**ADMINISTRATION**

**Rob Schommer, City Manager**

- A. A Motion To Reconsider A Resolution Generally Approving The Addition Of A New Amenity To The City's Parks And Recreation Facilities By Constructing A Veterans Memorial To Be Located Within The Center Of Thomas Cloud Memorial Park On Brandt Pike To Include Among Other Things, Monuments, Plaques, Pathways, Landscaping, Benches, Signage And Other Necessary Appurtenances.  
(first reading)
- B. A Resolution Approving The Montgomery County Intermunicipal Waste Services Agreement.  
(first reading)
- C. A Resolution Creating The 2020 Complete Count Census Committee To Plan And Conduct Local Educational Initiatives, Publicity And Promotional Activities To Increase Community Awareness And Participation In The 2020 Census.  
(first reading)
- D. An Ordinance Authorizing Transfers Between Various Funds Of The City Of Huber Heights, Ohio And Amending Ordinance No. 2018-O-2357 By Making Supplemental Appropriations For Expenses Of The City Of Huber Heights, Ohio For The Period Beginning January 1, 2019 And Ending December 31, 2019.  
(first reading)
- E. A Resolution Establishing An Investment Policy For The City Of Huber Heights, Ohio.  
(first reading)
- F. An Ordinance Amending Part Nine - Streets And Public Services Code; Title One - Street And Sidewalk Areas; Chapter 903 - Construction And Improvements In Public Right Of Way; Section 903.02 - Permit Required For Excavation Or Construction Of The Huber Heights City Code.  
(first reading)
- G. A Resolution To Increase The Not To Exceed Amount And Authorize The City Manager To Enter Into A Contract For The Brandt Pike And Chambersburg Road Mast Arm Installation Project.  
(first reading)

- H. A Resolution Authorizing The City Manager To Solicit Bids And Award A Contract For Services Related To Traffic Marking Striping Of State Route 235.  
(first reading)

12.        **Executive Session**

13.        **City Official Reports and Comments**

14.        **Adjournment**

**AI-6498**

**Minutes    A.**

**City Council Meeting**

**Meeting Date:** 08/26/2019

Approval of Minutes - 8/13/19

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** None

**Date(s) of Committee Review:** N/A

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/** N/A

**Resolution No.:**

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**Agenda Item Description or Legislation Title**

City Council Meeting Minutes - August 13, 2019

**Purpose and Background**

Approval of the minutes from the August 13, 2019 City Council Meeting.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

There are no financial implications to this agenda item.

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**Attachments**

Minutes

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# Huber Heights City Council

In Council Chambers  
6131 Taylorsville Road

August 13, 19

1. The Huber Heights City Council met in a Regular Session on August 13, 2019. Mayor Jeff Gore called the meeting to order at 5:00 p.m.
2. **Invocation** – There was no invocation.
3. **Pledge Of Allegiance**
4. **Roll Call**

Councilmembers present were Mayor Jeff Gore, Richard Shaw, Nancy Byrge, Glenn Otto, Ed Lyons, and Don Webb. Mayor Gore said Mark Campbell requested his absence be excused this evening, and Mr. Hill is delayed by a personal matter.

Seth Morgan arrived at 5:02 p.m.

Mayor Gore asked if there was a motion to excuse the absence of Mr. Campbell.

Mrs. Byrge so moved; Mr. Webb seconded the motion. On a call of the vote, Mr. Morgan, Mrs. Byrge, Mr. Lyons, Mr. Webb, and Mr. Shaw voted yea; Mr. Otto voted nay. The motion passes 5-1.

## 5. Approval Of Minutes

- A. City Council Meeting Minutes – July 8, 2019

## 6. Special Presentations/Announcements

- A. 2019 City Of Huber Heights Employee Of The First Quarter Presentation To Mr. Corey Gebhart, Firefighter/Paramedic – Mayor Gore and Mr. Rob Schommer, City Manager

Mr. Knisley said Corey Gebhart has been with the Fire Division for two and a half years, has continued to provide great care, and has shown dedication to his profession. He stated that Corey has achieved two STEMI awards for recognition of ST elevation myocardial infarction which is a heart attack that can be identified in the field. He said Corey has been on at least two calls where STEMI awards were awarded meaning Corey has reduced the amount of time it has taken for the patient to get from their house to the cath lab to stop the damage to heart muscle. He said Corey was also one of several members of the Fire Division that received the State of Ohio's Star of Life Award for lifesaving actions taken in an accident on Interstate 70 in Butler Township involving an amputation. Mr. Knisley said he is very proud of Corey, and he continues to grow and provide leadership to his fellow employees.

Mr. Schommer stated the level of training and protocols that the firefighters and paramedics have in this community is the best in the region, if not at the state or national level. He presented the 2019 Employee of the First Quarter Award to Corey.

## 7. Citizens Comments

Mr. Matthew Truman, 7655 Stonecrest Drive, said he wanted to discuss the Veterans Memorial and location. He thanked the City for forming the Military and Veterans Commission. He stated he was part of a citizens' group called the Huber Heights Veterans Project. He said this group had researched and visited locations for a potential memorial, and the group had thought the best location was Gary Sherman Park. He shared his comments regarding the disadvantages of placing the memorial at Thomas Cloud Park and other locations. He asked that the City pause

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on the location and give it more thought. He said, regardless of its location, the citizens will be happy there is a veterans' memorial in the City of Huber Heights.

### 8. Citizens Registered to Speak on Agenda Items

Mr. Rodgers said there were no citizens registered to speak on agenda items. He explained if the citizens would like to speak on the veterans' memorial agenda item, there are sheets on the counter to register to speak.

Mayor Gore stated when that agenda item comes up, they will give the citizens an opportunity to speak.

### 9. City Manager Report

City Manager Rob Schommer said there are a couple of events coming up, including the Marigold Festival and the first annual Bites in the Heights Food Truck Festival. He then passed out a copy of *Site Selection Magazine*, the largest nationally published periodical regarding site selection and economic development, for each Councilmember. He said the City of Huber Heights received a special notice and recognition in this magazine talking about the ecosystem of economic development and site selection opportunities related to some previous and existing large corporations that have selected Huber Heights as home. He said there has been some discussion regarding the status of the Water Pressure Project. He said updates have been posted on the City's website. He said, if appropriate installation of water lines was followed when the homes were built, there should be no issue with the increase of pressure. He said the City is pleased with the progress so far and the end result will be of benefit to the residents, businesses, and the Fire Division for potential firefighting needs.

Mr. Otto said the Bites in the Heights will be a good event for the City and asked what group organized this event.

Mr. Schommer replied the City is sponsoring the event and the event is part of the use agreement with MEMI. He said the event is free to attend.

### 10. Pending Business

- A. An Ordinance Adopting And Enacting A Republished City Code For The City Of Huber Heights, Ohio; Providing For The Repeal Of Certain Ordinances Not Included Therein; Providing A Penalty For The Violation Thereof; Providing For The Manner Of Amending Such Code; And Providing When Such Code And This Ordinance Shall Become Effective.  
(second reading)

Mr. Rodgers said this is an ordinance to adopt the newly republished City Code. He said the City switched codification providers at the end of last year and this action is part of the process of converting over to the new City Code. He said this is the second reading of this item and he asked for the adoption of this item tonight.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Otto moved to adopt; Mr. Webb seconded the motion. On a call of the vote, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mr. Webb, Mr. Shaw, and Mr. Morgan voted yea; none voted nay. The motion passes 6-0

- B. An Ordinance Approving The Editing And Inclusion Of Certain Ordinances And/Or Resolutions As Parts Of The Various Component Codes Of The City

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Code Of Huber Heights, Ohio; Providing For The Adoption And Publication Of New Matter In The Updated And Revised City Code As Supplement 1; And Repealing Ordinances And Resolutions In Conflict Therewith.  
(second reading)

Mr. Rodgers said this is a secondary part of the City Code conversion process. He said this legislation incorporates all of the legislation that has been passed in recent months into Supplement 1 and makes the legislation an effective part of the City Code. He stated this item is at the second reading and he requested that this item be approved tonight.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mrs. Byrge moved to adopt; Mr. Lyons seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mr. Webb, Mr. Shaw, Mr. Morgan, and Mrs. Byrge voted yea; none voted nay. The motion passes 6-0

- C. An Ordinance To Amend The City Code Of Huber Heights, Ohio To Provide Amendments To Part Five – General Offenses Code, Sections 513.01, 513.03, 513.05, 545.10, 594.04; To Provide For Penalties; To Provide For Codification; To Provide For Severability; To Repeal Conflicting Ordinances; To Provide An Effective Date; And For Other Purposes.  
(second reading)

Mr. Rodgers said this item incorporates recent changes to the Ohio Revised Code into the City Code in the “General Offenses” section and incorporates those references into the City Code. He said this item is at the second reading and he requested that this item be approved tonight.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Otto moved to adopt; Mr. Lyons seconded the motion. On a call of the vote, Mr. Lyons, Mr. Webb, Mr. Shaw, Mr. Morgan, Mrs. Byrge, and Mr. Otto voted yea; none voted nay. The motion passes 6-0

### 11. New Business

#### CITY COUNCIL

**Anthony Rodgers, Clerk of Council**

- A. A Motion To Appoint Larry Johnson To The Personnel Appeals Board For A Term Ending March 31, 2021.

Clerk of Council Anthony Rodgers said the recommendation of the City’s interview panel is to appoint Larry Johnson to the Personnel Appeals Board to a term expiring March 31, 2021.

Mrs. Byrge moved to adopt the motion; Mr. Shaw seconded the motion. On a call of the vote, Mr. Webb, Mr. Shaw, Mr. Morgan, Mrs. Byrge, Mr. Otto, and Mr. Lyons voted yea; none voted nay. The motion passes 6-0.

- B. An Ordinance Adopting And Approving A Revised Public Records Policy For The City Of Huber Heights Consistent With The Ohio Public Records Law.  
(first reading)

Mr. Rodgers said this item is the result of discussion at a recent Council Work Session involving some revisions to the Public Records Policy for the City. He said the revisions deal with requests of an overly broad or ambiguous

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nature and defining those requests more clearly. He said the Law Director, Gerald McDonald, was involved in the drafting of these revisions; and the revised policy was unanimously approved by the Public Records Commission and recommended to the City Council for approval. He said this item is an ordinance at the first reading. He asked if it was Council's wish to have a second reading of this legislation or to waive the second reading of the legislation and adopt this item this evening.

Mayor Gore said, as there is no emergency, it would be his recommendation that this item be passed to a second reading. Hearing no objections, he said this item will be passed to a second reading.

- C. A Resolution Authorizing The City Manager To Continue Participation In The Multi-Jurisdictional Hazard Mitigation Plan In Conjunction With The Montgomery County Office Of Emergency Management.  
(first reading)

Mr. Schommer said part of the requirements of the Ohio Emergency Management Agency is a resolution with all participating agencies within the county to continue participation in the Hazard Mitigation Plan as noted in the title. He said this is a formality, and the City was involved in the review and resubmission of the plan. He said the legislation establishes the City's continued participation in that plan.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Lyons moved to adopt the motion; Mr. Otto seconded the motion.

Mr. Morgan asked as a side note for Mr. Schommer to give an update on the funds approved to help victims and communities impacted by the tornados and how preparedness and responses could have been better.

Mr. Schommer said he was preparing something for the next Council Work Session and he is looking for statistics on some of the monies the City had provided to these organizations to get information on the effects of the City's direct efforts to assist.

On a call of the vote, Mr. Shaw, Mr. Morgan, Mrs. Byrge, Mr. Otto, Mr. Lyons, and Mr. Webb voted yea; none voted nay. The motion passes 6-0.

- D. An Ordinance To Approve An Economic Development Plan And To State That The City May Hereafter Proceed With Approval Of Tax Increment Financing Incentive District, And Declaring An Emergency.  
(first reading)

Mayor Gore asked Vice Mayor Seth Morgan to preside over this particular item. He stated, if this item moved into a discussion, he would remove himself from the dais.

Mr. Schommer said this is the ordinance that would approve an economic development plan that would then allow the City to consider proceeding with approval of an incentive district through tax increment financing or a TIF district. He said this is one step of the many steps involved in the process. He thanked Bryan Chodkowski and Jason Foster for putting the information together. He reiterated this ordinance does not establish a TIF, it merely establishes approval of an economic development plan to begin the process to finalize and consider the adoption and establishment of a TIF-based incentive



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district. He stated this legislation does have the emergency provision to allow the City to act and begin notice of the public hearings and the next steps involved. He asked Council to waive the second reading and adopt this item this evening.

Mr. Rodgers stated this item actually was planned and scheduled for two readings, and that the emergency clause was added to preclude any referendum on this particular item. He said Mr. Chodkowski's timeline indicated this item was going to a second reading.

Mr. Morgan said he would let Council make that decision as it sounds like City Staff would like to see it move on, but that Mr. Rodgers' comments are accepted as well. He asked Council for a motion to waive the second reading if Council wanted to pursue that or let this item go on to a second reading.

Mrs. Byrge said she is a little uneasy because she remembered Mr. Chodkowski's timeline to meet a deadline in October or November. She said if Council does not waive the second reading, Council may be compromising the ability to do this.

Mr. Schommer said this ordinance is to adopt an economic development plan that states this is the need and purpose to begin the process, and this is the benchmark step. He said this does not establish a TIF and does not circumvent any potential public input. He said, as Mr. Morgan stated, the City could at Council's pleasure wait for the second reading and, if needed, condense and compress the timeline later.

Andy Hill arrived at 5:35 p.m.

Mrs. Byrge asked if the City has the ability to compress the timeline.

Mr. Schommer said the City Staff is a group that can find a way to get it accomplished. He said whatever Council would like to see occur, he will see that it happens.

Mr. Shaw moved to waive the second reading; Mrs. Byrge seconded the motion. On a call of the vote, Mr. Morgan, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 7-0.

Mr. Shaw moved to adopt; Mrs. Byrge seconded the motion.

Mr. Shaw said he was hoping this item could go for additional comments, but due to the cancellation of the previous meeting without a quorum, he understands the need to move this item forward. He said the residents of Lexington Place and this community deserve to see this economic development plan move forward.

On a call of the vote, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, and Mr. Morgan voted yea; none voted nay. The motion passes 7-0.

- E. A Resolution Generally Approving The Addition Of A New Amenity To The City's Parks And Recreation Facilities By Constructing A Veterans Memorial To Be Located Within The Center Of Thomas Cloud Memorial Park On Brandt Pike To Include Among Other Things, Monuments, Plaques, Pathways, Landscaping, Benches, Signage And Other Necessary Appurtenances.  
(first reading)

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Mr. Schommer said, as discussed in times past and through the efforts initiated by the Huber Heights Veterans Memorial Project, they found it best to combine forces with the newly formed Military and Veterans Commission. He said there were a few members of the commission present tonight to speak on this item. He said the resolution would officially establish a veterans' memorial as a project within the City's control based on the recommendations of the Military and Veterans Commission's subcommittee on the veterans' memorial. He said the site selection was based on visibility, visitation, and recognition within a key park. He said the comments regarding Gary Sherman Park were that it was off the beaten path, and there were possible security issues. He reviewed the comments in favor of the Thomas Cloud Park location.

Mr. Al Griggs said he supports the subcommittee's decision. He reviewed the reasons for selecting Thomas Cloud Park, and he said he supports the decision, and knows it is the right approach. He said he appreciates all the work the others before had done before the commission took over.

Mr. Lou Brown said he helped design and build a veterans' park in Casstown. He said one of the most important things is that anywhere you go and see a veterans' memorial, you can drive by and see it. He said Thomas Cloud Park on the upper hill has that feature. He said he spoke to the Police Chief about security at this location and there have only been two incidents in 2018. He said that security is a minor issue at this location.

Mr. William Cromer said he is part of the subcommittee. He said he has lived in Huber Heights since 1956 and did not know there was a park behind the Police Division building. He said there are a lot of people who visit Thomas Cloud Park and the visibility is one of the reasons they chose that location.

Mayor Gore asked if the subcommittee decision was a unanimous decision.

Mr. Griggs confirmed the decision was unanimous.

Mr. Schommer recapped that the resolution establishes the project. He said there is a need to utilize funds to work on the design and the specific location. He said the commission and City Staff will bring the recommendations for review and approval by Council.

Richard Shaw asked that this item be moved to the next Council Work Session for further discussion. He said at the previous Council Work Session on August 5, 2019, there was no mention of Thomas Cloud Park and once the discussion was done, there was no definitive place for the memorial. He said it was even stated by the City Manager and the Mayor that this resolution would be used to establish the project and discuss a location at a further time. He said he would like to get more feedback from other entities.

Mayor Gore said the mention of the location could be amended at a later time. He asked, based on the recommendation at the Council Work Session, if there was a motion to adopt.

Mrs. Byrge moved to adopt; Mr. Lyons seconded the motion.

Mr. Otto said he would like to see this item go out for one more reading. He said, at the last meeting, it was stated the City would move forward to establish a veterans' memorial, but that a location would not be considered at that point. He said this legislation provides a location three different times.

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He recommended striking the location and passing the legislation for now and then working on location in the future, or move it out to one more reading.

Mrs. Byrge said, in all this time, there were conversations and ample opportunity for the other veterans' organizations to provide feedback and help. She said the commission was established to go out and do research. She said she recommends Council go forward with this item, and if changes need to be made later, the changes can be made then.

Mr. Griggs said the commission would like to initiate the project today. He said, as far as the location, that is the recommendation.

Mr. Morgan said he will not support this item if it goes forward this evening. He said he would strongly recommend, at a minimum, that Council strike Thomas Cloud Park from the resolution. He said he has a broader concern that the City continues making decisions in Huber Heights without carefully and strategically thinking through the identity and the core of Huber Heights. He discussed possible ideas for placement of the memorial and stated that placing the memorial on the very southern tip of the City is a massive strategic mistake. He reiterated he would not support the resolution in its current form.

On a call of the vote, Mr. Lyons, Mr. Webb, and Mrs. Byrge voted yea; Mr. Otto, Mr. Hill, Mr. Shaw, and Mr. Morgan voted nay. The motion fails 3-4.

- F. An Ordinance Amending Ordinance No. 2018-O-2357 By Making Supplemental Appropriations For Expenses Of The City Of Huber Heights, Ohio For The Period Beginning January 1, 2019 And Ending December 31, 2019.  
(first reading)

Mr. Schommer said there is a need for supplemental appropriations. He stated \$17,000 has been added for the classification/compensation study as the RFP quotes came in a little higher than expected. He said an additional \$6,000 was added for the Fire Insurance surety check, and the City is preparing for a \$200,000 reimbursement from Montgomery County for the ED/GE grant award. He asked that the second reading be waived and this item be approved this evening.

Mrs. Byrge left the meeting at 5:55 p.m.

Mayor Gore stated the Council Work Session recommendation was to waive the second reading and adopt this item.

Mr. Shaw moved to waive the second reading; Mr. Hill seconded the motion. On a call of the vote, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Mr. Morgan, and Mr. Otto, voted yea; none voted nay. The motion passes 6-0.

Mr. Webb moved to adopt; Mr. Hill seconded the motion. On a call of the vote, Mr. Hill, Mr. Webb, Mr. Shaw, Mr. Morgan, Mr. Otto, and Mr. Lyons voted yea; none voted nay. The motion passes 6-0.

- G. An Ordinance Approving Individual Assessments Amounts And Directing The Finance Director Or His/Her Designee To Certify The Amounts To The Applicable County Auditor For Collection, And Declaring An Emergency.  
(first reading)

Mr. Schommer said this item refers to the County Auditor's new ordinance requirement, and this item is the next batch of those assessments that need to get filed by ordinance and submitted to Montgomery County. He asked that the second reading be waived and said there is a declaration of an emergency

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within the ordinance to meet the timeline to get the assessments filed and placed on the schedule to be assessed.

Mayor Gore stated the Council Work Session recommendation was to waive the second reading and adopt this item.

Mr. Hill moved to waive the second reading; Mr. Shaw seconded the motion.

Mr. Lyons asked Mr. Schommer about the date the assessments must be filed by.

Mr. Schommer stated he is uncertain, and this was the recommendation in this particular ordinance and in this particular timeframe.

Mr. Lyons asked, if this item was pushed to the next City Council Meeting, would it be past that date.

Mr. McDonald stated he could not remember the exact date to file with the auditor's office, and that he believes the issue is that before City Staff can send out letters to residents, the ordinance must be passed. He said if Council waited until the next meeting, there would not be enough time to send out the letters and then file the assessments with the County Auditor on time.

Mr. Lyons confirmed that the ordinance cannot go past this meeting to start the timetable. He said to Mayor Gore that he knew Councilwoman Byrge had specifically requested that pending votes that were very necessary be placed at the top of the agenda, and that she made that request in the Council Work Session and through City email, and she has had to leave. He asked if there was any reason why this item was not earlier in the agenda when she could have been present to vote.

Mayor Gore said this issue was not discussed in the Council Work Session. He said he knows this evening as he arrived and talked about items based on the agenda, that it did not seem like any items were contentious or were not going to get through.

Mr. Rodgers said the first he was aware that Mrs. Byrge was going to be leaving early was this afternoon.

On a call of the vote, Mr. Webb, Mr. Shaw, Mr. Morgan, Mr. Otto, Mr. Lyons, and Mr. Hill voted yea; none voted nay. The motion passes 6-0.

Mr. Hill moved to adopt; Mr. Webb seconded the motion. On a call of the vote, Mr. Shaw, Mr. Morgan, Mr. Otto, Mr. Lyons, Mr. Hill, and Mr. Webb voted yea; none voted nay. The motion passes 6-0.

- H. A Resolution Authorizing And Directing The City Manager To Execute An Agreement With The Ohio Attorney General's Office Relative To The Collection Of Delinquent Tax Debt Owed To The City Of Huber Heights. (first reading)

Mr. Schommer said, that when presented with this program, the Tax Division recognized many advantages. He said it is a resource that is available and cost effective, and additionally the Attorney General's Office has the ability to reach out and take actions that the City would not be able to do regarding the collection of delinquent taxes. He said this is the next step in the City's compliance work with the Tax Division. He said this agreement with the Attorney General's Office allows the City to net 100 percent of the debt owed and collected.

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Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Shaw moved to adopt; Mr. Hill seconded the motion.

Mr. Morgan said, in Mr. Schommer's reference, the City was able to keep 100 percent, but that Section 5.1 references "minus collection fees". Mr. Schommer said that yes, there is a fee, but of the debt that is collected the City receives 100 percent.

Mr. McDonald clarified that if the tax due was \$100, then the Attorney General will say it is \$100 plus a fee, and the Attorney General's Office keeps the fee and the City receives the \$100. He said the fee does not come out of the principal amount.

On a call of the vote, Mr. Morgan, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 6-0.

- I. A Resolution Declaring Certain City Property No Longer Needed For Municipal Purposes As Surplus And Authorizing Disposal Of Said Surplus Property.  
(first reading)

Mr. Schommer said this item is to dispose of four police cruisers which are slated to be surplus and sold at auction. He said this is a routine thing that is done each year. He said the replacement vehicles have been ordered and are prepared to be placed in service as these old vehicles have been decommissioned and unequipped for transfer.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Webb moved to adopt; Mr. Otto seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, and Mr. Morgan voted yea; none voted nay. The motion passes 6-0.

- J. An Ordinance To Levy Special Assessments For The Repair And Reconstruction Of Sidewalks, Curbs And Gutters, Driveway Approaches, And Appurtenances Thereto On Parts Or All Of Certain Streets In The City Of Huber Heights Referred To As The 2019 Sidewalk Program, And Declaring An Emergency.  
(first reading)

Mr. Schommer said assessments are due the second week of September, and because of that this ordinance is requested to be considered for adoption with an emergency provision as it maximizes the amount of time possible for the residents that choose to pay the amount owed for the repairs. He said under the program, the owners have until September 3, 2019 to make a payment, and after that, unpaid assessments will be presented in a final ordinance for approval before the list is sent to the County Auditor the second week of September.

Mayor Gore stated the Council Work Session recommendation was to waive the second reading and adopt this item.

Mr. Webb moved to waive the second reading; Mr. Hill seconded the motion. On a call of the vote, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Mr. Morgan, and Mr. Otto, voted yea; none voted nay. The motion passes 6-0.

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Mr. Webb moved to adopt; Mr. Shaw seconded the motion. On a call of the vote, Mr. Hill, Mr. Webb, Mr. Shaw, Mr. Morgan, Mr. Otto, and Mr. Lyons voted yea; none voted nay. The motion passes 6-0.

- K. A Resolution Declaring The Necessity Of Repairing Sidewalks, Curbs, Gutters, Driveway Approaches And Appurtenances Thereto On Portions Or All Of Certain Streets In The 2020 Sidewalk Program, Providing That Abutting Owners Repair The Same.  
(first reading)

Mr. Schommer said this item is to establish the 2020 Sidewalk Program which falls on the heels of finalizing the 2019 Sidewalk Program.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Otto moved to adopt; Mr. Shaw seconded the motion. On a call of the vote, Mr. Webb, Mr. Shaw, Mr. Morgan, Mr. Otto, Mr. Lyons, and Mr. Hill voted yea; none voted nay. The motion passes 6-0.

- L. A Resolution Authorizing The City Manager To Enter Into A Contract For Municipal Bridge Inspection Services.  
(first reading)

Mr. Schommer said the Ohio Department of Transportation (ODOT) has asked for this consent legislation. He said it is 100 percent funded by ODOT, and this program helps municipalities within the state to maintain full compliance with the Federal Highway Safety Administration's requirements for bridge inspections.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Otto moved to adopt; Mr. Hill seconded the motion.

Mr. Shaw asked where someone could find the recent inspection reports of the fourteen bridges in Huber Heights.

Mr. Schommer said the County Engineer's Office would have that information. He said a report is posted annually outlining objectives to meet regarding bridge inspections that are incumbent upon the municipality, the county, and the state. He said there are restrictions with county-owned versus municipality-owned bridges. He said the City only actually has control of one bridge that is on Kellenburger Road.

Mr. Shaw said that it would be good for the entire Council, when it comes to transportation infrastructure within the community, to understand the aging structures of these bridges.

On a call of the vote, Mr. Shaw, Mr. Morgan, Mr. Otto, Mr. Lyons, Mr. Hill, and Mr. Webb voted yea; none voted nay. The motion passes 6-0.

- M. A Resolution Authorizing The City Manager To Prepare And Submit An Application To Participate In The Ohio Public Works Commission State Capital Improvement And/Or Local Transportation Improvement Program(s) And To Execute Contracts As Required For The Bellefontaine Road Widening And Culvert Replacement Project.  
(first reading)

Mr. Schommer said the City has identified an area of Bellefontaine Road that not only has a sight line or distance issue, but also a culvert that is in need of replacement. He said utilizing the OPWC Capital Improvement Fund and/or

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local transportation improvement programs and funding gives the City an opportunity to authorize participation and submit an application for that funding.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Hill moved to adopt; Mr. Otto seconded the motion. On a call of the vote, Mr. Morgan, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 6-0.

- N. A Resolution Authorizing The City Manager To Enter Into Contract For The Harshmanville Road Area Water Main Replacement Project.  
(first reading)

Mr. Schommer said the City was successful in utilization of OWPC funds for reimbursement for part of this project. He said the project allows the City to replace a water main in the Harshmanville Road area. He said this resolution authorizes the City to enter into the contract with Outdoor Enterprise for this work at a cost not to exceed \$830,000.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Shaw moved to adopt; Mr. Hill seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, and Mr. Morgan voted yea; none voted nay. The motion passes 6-0.

- O. A Resolution Authorizing The City Manager To Enter Into A Contract With Durst Brothers Excavating To Repair A Sanitary Sewer Force Main On Powell Road And Waiving The Competitive Bidding Requirements.  
(first reading)

Mr. Schommer said Durst Brothers Excavating has a team ready to do the repairs and this resolution authorizes the City to enter into that contract. He said there is a force main on Powell Road just west of Old Troy Pike that is causing some sink holes. He said the not to exceed amount for the work is \$64,000.

Mayor Gore stated the Council Work Session recommendation was to adopt this item.

Mr. Hill moved to adopt; Mr. Shaw seconded the motion. On a call of the vote, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Mr. Morgan, and Mr. Otto voted yea; none voted nay. The motion passes 6-0.

### 12. City Official Reports and Comments

Mr. Shaw noted it has been a while since the last City Council Meeting on July 8, 2019 and a lot has happened since that time. He said the National League of Cities Conference was an absolute success and thanked all the communities in the Miami Valley and First Tier Suburbs that participated in the event. He said National Night Out was a huge success as always and thanked all whom participated. He asked for an item to be placed on the next Council Work Session agenda, which will be a multi-media presentation. He said he will be presenting several different things about NLC programs. He stated there is a new NLC program that is called "Love My City". He said this program will be an opportunity for the residents and business owners to take photos and videos of themselves in different areas of Huber Heights and post them on social media. He said this is nationwide effort. He said it is a good opportunity to increase pride within the community.

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Mayor Gore asked Mr. Rodgers to add Mr. Shaw's to the next Council Work Session agenda.

Mayor Gore welcomed back to school all the kids watching. He said there is a competition on many different levels between Huber Heights and Centerville, but every time he has been around Centerville's Mayor, that he is very friendly and warm. He said he would not expect anything different. He said he just wanted everyone to know that Mayor Compton did attend the NLC event in Huber Heights and sent a personal note thanking the City for the event. He said most people think of Huber Heights and Centerville as a massive competition, but there is nothing of the sort between the City officials. He said he will make a copy of that letter available to all Councilmembers.

**13. Executive Session**

There was no need for Executive Session.

**14. Adjournment**

Mayor Gore adjourned the Regular Session Council Meeting at 6:19 p.m.

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date



AI-6512

Special Presentations/Announcements A.

City Council Meeting

Fire

Meeting Date: 08/26/2019

New Hire Swearing In Presentation - Huber Heights Fire Division Personnel

Submitted By: Mark Ashworth

Department: Fire

Council Committee Review?: None

Date(s) of Committee Review: N/A

Audio-Visual Needs: None

Emergency Legislation?: No

Motion/Ordinance/  
Resolution No.:

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Agenda Item Description or Legislation Title

New Hire Swearing In Presentation For Huber Heights Fire Division Personnel - Fire Chief Mark Ashworth And Mayor Jeff Gore

Purpose and Background

Five new Firefighter/Paramedics have been hired. The following Fire Division personnel will be presented to City Council and the public for the ceremonial swearing in and badge pinning, including new hires Firefighter/Paramedic Caleb Dersch, Firefighter/Paramedic Zach Holbrook, Firefighter/Paramedic John Ries, Firefighter/Paramedic Mathew Webb, and Firefighter/Paramedic Timothy Madden.

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Fiscal Impact

Source of Funds: N/A

Cost: N/A

Recurring Cost? (Yes/No): N/A

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

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Attachments

No file(s) attached.

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AI-6523

**City Council Meeting**

**Special Presentations/Announcements    B.**  
**City Council**

**Meeting Date:** 08/26/2019

Mayoral Proclamation Presentation - Miami Valley Young Marines - Sergeant Jaelen Bobo

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** None

**Date(s) of Committee Review:** N/A

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Mayoral Proclamation Presentation To Sergeant Jaelen R. Bobo, Miami Valley Young Marines - Mayor Jeff Gore

**Purpose and Background**

Mayor Jeff Gore will be presenting a mayoral proclamation (see attached) to Sergeant Jaelen R. Bobo of the Miami Valley Young Marines in special recognition of Sergeant Bobo's significant achievements.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Proclamation

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# City of Huber Heights Mayoral Proclamation

## SPECIAL RECOGNITION FOR SIGNIFICANT ACHIEVEMENT

**WHEREAS**, the City of Huber Heights wishes to express its appreciation and admiration for a very special individual who is most worthy of this highest mark of our favor; and

**WHEREAS**, for five and one-half years, Sergeant Jaelen R. Bobo has provided diligent and honorable service as a member of the Miami Valley Young Marines and has been the recipient of numerous awards and commendations; and

**WHEREAS**, the leadership abilities of Sergeant Bobo set a good example for other Young Marines and have contributed to a proud unit reputation when dealing with members of the community. He served honorably and effectively in many key Young Marine positions, including as recruit instructor, supply assistant, and fund-raising organizer. Further, he contributed enthusiastically to Young Marines activities such as Color Guards, veteran support activities and the Marine Corps Toys for Tots program; and

**WHEREAS**, Sergeant Bobo provided outstanding support to the Young Marines operational mission of drug demand resistance and reduction through his second to none instructional skills. He sought every opportunity to organize and present classes to Young Marines and to children in elementary schools and outside organizations thereby spreading the valuable anti-drug message. Due to his instructional excellence, Sergeant Bobo was specifically selected by the Drug Enforcement Administration to attend a one-week special training program in Washington, D.C. There is no doubt that the unit's winning of the national Drug Enforcement Administration Kiki Camarena and Department of Defense Fulcrum Shield awards was due in large part to the efforts of this fine Young Marine; and

**WHEREAS**, there is no doubt that Sergeant Bobo will continue his dedicated service to community and country.

**NOW, THEREFORE**, I, Jeff Gore, Mayor of the City of Huber Heights, Ohio do hereby recognize and extend to him congratulations and the admiration of all the citizens of our community and offer our very best wishes for health, happiness, and continued success to:

**Sergeant Jaelen R. Bobo**  
**Miami Valley Young Marines**

**BE IT FURTHER RESOLVED**, that this recognition is sealed by presenting to this honored individual a City coin from the City of Huber Heights as a token of our esteem.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Huber Heights to be affixed this twenty-sixth day of August in the Year of Our Lord, Two Thousand and Nineteen.

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JEFF GORE  
MAYOR

AI-6524

**Special Presentations/Announcements C.  
City Council**

**City Council Meeting**

**Meeting Date:** 08/26/2019

Mayoral Proclamation Presentation - Miami Valley Young Marines - Sergeant Master John P. Sollinger

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** None **Date(s) of Committee Review:** N/A

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

Mayoral Proclamation Presentation To Master Sergeant John P. Sollinger, Miami Valley Young Marines - Mayor Jeff Gore

**Purpose and Background**

Mayor Jeff Gore will be presenting a mayoral proclamation (see attached) to Master Sergeant John P. Sollinger of the Miami Valley Young Marines in special recognition of Master Sergeant Sollinger's significant achievements.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Proclamation

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# City of Huber Heights Mayoral Proclamation

## SPECIAL RECOGNITION FOR SIGNIFICANT ACHIEVEMENT

**WHEREAS**, the City of Huber Heights wishes to express its appreciation and admiration for a very special individual who is most worthy of this highest mark of our favor; and

**WHEREAS**, for five years, Master Sergeant John P. Sollinger has provided diligent and honorable service as a member of the Miami Valley Young Marines and has been the recipient of numerous awards and commendations; and

**WHEREAS**, Master Sergeant Sollinger is an outstanding leader who provides a great example and encouragement to other Young Marines. His unflagging devotion to his duty is greatly applauded by the Unit Commander and Staff. His rise through the Young Marines rank structure is nothing less than meteoric. In fact, in the entire history of the unit, he is the first Young Marine ever to achieve the rank of Master Sergeant; and

**WHEREAS**, of special note, Master Sergeant Sollinger received a Personal Achievement Award for his personal courage and determination in training for and completing the Bataan Memorial Death March, a 26-mile desert hike held in the White Sands Missile Range, New Mexico, completed in one day under intense heat and the shouldering of a 35-pound pack; and

**WHEREAS**, due to his superior leadership skills, Master Sergeant Sollinger was appointed unit First Sergeant and has also served as Battalion Sergeant Major. He exerted efforts far above and beyond the call of duty on numerous occasions making him a very large part of the unit's success. His poise, military bearing and knowledge are second to none. Master Sergeant Sollinger provided countless contributions to the unit in guaranteeing successful mission accomplishment; and

**WHEREAS**, Master Sergeant Sollinger will continue his dedicated service to community and country as he prepares for entry into the United States Marine Corps.

**NOW, THEREFORE**, I, Jeff Gore, Mayor of the City of Huber Heights, Ohio do hereby recognize and extend to him congratulations and the admiration of all the citizens of our community and offer our very best wishes for health, happiness, and continued success to:

**Master Sergeant John P. Sollinger**  
**Miami Valley Young Marines**

**BE IT FURTHER RESOLVED**, that this recognition is sealed by presenting to this honored individual a City coin from the City of Huber Heights as a token of our esteem.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Huber Heights to be affixed this twenty-sixth day of August in the Year of Our Lord, Two Thousand and Nineteen.

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JEFF GORE  
MAYOR

AI-6522

Special Presentations/Announcements D.  
City Council

City Council Meeting

Meeting Date: 08/26/2019

Miami Valley Young Marines Flag Dedication Mayoral Proclamation Presentation

Submitted By: Anthony Rodgers

Department: City Council

Council Committee Review?: None Date(s) of Committee Review: N/A

Audio-Visual Needs: SmartBoard Emergency Legislation?: No

Motion/Ordinance/  
Resolution No.:

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Agenda Item Description or Legislation Title

Miami Valley Young Marines Flag Dedication Mayoral Proclamation Presentation - Mayor Jeff Gore

Purpose and Background

Mayor Jeff Gore will be presenting a mayoral proclamation (see attached) to the Miami Valley Young Marines in recognition of the organization's involvement in the Flag Dedication Ceremony at Thomas Cloud Park during the Star Spangled Heights Celebration.

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Fiscal Impact

Source of Funds: N/A

Cost: N/A

Recurring Cost? (Yes/No): N/A

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

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Attachments

Proclamation

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# City of Huber Heights Mayoral Proclamation

## SPECIAL RECOGNITION FOR SIGNIFICANT ACHIEVEMENT

**WHEREAS**, the City of Huber Heights wishes to express its congratulations and admiration for a very special organization which is most worthy of this highest mark of our favor; and

**WHEREAS**, the Special Recognition for Significant Achievement is an award to organizations in the community who have brought great credit to themselves and honor to the community by an achievement of such magnitude as to warrant special recognition; and

**WHEREAS**, this honor is reserved for those instances where the City of Huber Heights is placed in high esteem as a result of the accomplishments of those organizations selected to receive this award; and

**WHEREAS**, during the recent Huber Heights Star Spangled celebration, the Miami Valley Young Marines unit provided a unique display of patriotism and esprit de corps. Through special preparation, the Young Marines procured and carried flags depicting the entire history of United States flags including the first flag authorized by the 1777 Continental Congress and constructed by Betsy Ross, as well as the Gadsden Flag (Don't Tread on Me) and the Saint George Cross Flag; and

**WHEREAS**, in addition, the Young Marines wore the uniforms of a special Heritage Unit which depicted the military uniforms of the Revolutionary War up to and including present day combat uniforms. These uniforms were prominently displayed to the parade audience and during the Young Marines firing party for the flag dedication at Thomas Cloud Park; and

**WHEREAS**, the Young Marines' activity provided sure and certain proof that the concepts of patriotism and service to country are alive and well. Their presentation greatly reflected the role and sacrifices of our veterans who have honorably given so much to our country's well-being. The Miami Valley Young Marines are committed to continue such patriotic symbolism for many years to come.

**NOW, THEREFORE**, I, Jeff Gore, Mayor of the City of Huber Heights, Ohio do hereby extend our very best wishes for health, happiness, and continued success from the City of Huber Heights to the:

## **Miami Valley Young Marines**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Huber Heights to be affixed this twenty-sixth day of August in the Year of Our Lord, Two Thousand and Nineteen.

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JEFF GORE  
MAYOR

**AI-6499**

**Pending Business    A.**  
**City Council**

**City Council Meeting**

**Meeting Date:** 08/26/2019

City Public Records Policy

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session      **Date(s) of Committee Review:** 08/05/2019

**Audio-Visual Needs:** None      **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

An Ordinance Adopting And Approving A Revised Public Records Policy For The City Of Huber Heights Consistent With The Ohio Public Records Law.  
(second reading)

**Purpose and Background**

The City Public Records Policy was last updated in 2016. The Public Records Commission has reviewed, considered, and recommended upon the revised City Public Records Policy. This agenda item is to allow for the City Council to review, consider, and adopt the revised City Public Records Policy.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Public Records Policy - Draft Revisions

Ordinance

Exhibit A

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# CITY OF HUBER HEIGHTS PUBLIC RECORDS POLICY

## MISSION STATEMENT

Openness leads to a better-informed citizenry, which leads to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of the City of Huber Heights as custodian of Public Records for and on behalf of the people to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act

## PURPOSE

The City of Huber Heights maintains, for public view, many documents and records. In accordance with Ohio law and the Public Records Commission for the City of Huber Heights, Record Retention Schedules have been established for the City. The Records Retention Schedules list all of the records maintained by the City and the period of time for which these records are maintained. These records are maintained for the operation of City departments/divisions and to provide a source of information for the public. It is the primary goal of the City that it serves the citizens of Huber Heights in a manner of trust. These records, and the ability to have access to them, are a means to provide trust between citizens and the City of Huber Heights. The underlying purpose of the Huber Heights Public Records Policy is to provide for full and prompt disclosure of public records and assure that City employees take all reasonable steps to properly comply with requests for public records.

## DEFINING AND MAINTAINING PUBLIC RECORDS

Public ~~All~~ records ~~that~~ are documents, devices or items kept by the City that meet both of the following: (1) they are created, received by, or coming under the jurisdiction of the City of Huber Heights; and (2) that they documents the organization, functions, policies, decisions, procedures, operations, or other activities of the public office. ~~are public.~~ Public records are available to the public unless the records are exempt from disclosure under Ohio law. All public records are organized and maintained in such a way that the records can be made available for inspection and copying. All public records shall be maintained in accordance with the Records Retention Schedules established by the City. Copies of the City's Records Retention Schedules are readily available to the public in the Clerk of Council's Office and on the City's website at [www.hhoh.org](http://www.hhoh.org) as required by Section 149.43(8)(2) of the Ohio Revised Code.

~~A record is defined to include the following: a document, device or item regardless of physical form or characteristic, including an electronic record as defined in Section 1306.01 of the Ohio Revised Code, created, received by, or coming under the jurisdiction of the City of Huber Heights that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the public office. Provided, however, that public records shall not include those items specifically excluded from the definition of a public record under the Ohio Revised Code as amended from time to time.~~

Just because the City has a document does not mean it is a public record. In addition to obvious non-records such as junk mail and electronic “spam,” some items in the possession of the City do not meet the definition of a public record because the record does not document the activities of a public office. An item received by a public office is not a record simply because the public office could use the item to carry out its duties and responsibilities.

## **CUSTODIAN OF PUBLIC RECORDS**

The Police Chief is the Public Records Administrator for those public records maintained by the Police Division. The Fire Chief is the Public Records Administrator for those public records maintained by the Fire Division. The Clerk of Council is the Public Records Administrator for all of the public records maintained by the rest of the City. Department/division heads are the official *public records custodians* of all public records maintained within the departments/divisions.

In fulfilling the duties of the Public Records Administrator, the Public Records Administrator shall consult with the Law Director and City Manager as appropriate. All Public Records shall be maintained such that no release of Public Records from the custody of the City shall occur except as permitted by the Ohio Public Records Act and the Public Record Commission Retention and Destruction Schedules. *Failure to comply with the Public Record Policy of the City subjects the City to liability; thus it is incumbent on the City, its employees and public officials and the Public Records Administrator to comply in all respects with the Public Records Law and the City Policy implementing the Public Records Act of the State of Ohio.*

## **RESPONSE TIMEFRAME**

Public records are to be available for inspection to any person at reasonable times during regular business hours, excluding legal holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested.

The regular business hours for City Hall are from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Police Division are from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Fire Division are from 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

It is the goal of the City of Huber Heights that all requests for public records should be acknowledged in writing or, if possible, satisfied within ten (10) business days following the City's receipt of the request.

## HANDLING REQUESTS

No specific language is required to make a request for public records. However, the requestor must at least identify the records requested with sufficient clarity to allow the City of Huber Heights to identify, retrieve, and review the records. If it is not clear what records are being sought, the City of Huber Heights must contact the requestor for clarification and should assist the requestor in revising the request by informing the requestor of the manner in which the City keeps its public records.

If after contacting the requestor for clarification, the request is still ambiguous or overly broad, the request may be denied.

An ambiguous request is one that lacks the clarity a public office needs to ascertain what the requester is seeking and where to look for records that might be responsive. This often occurs when the wording of the request is subject to interpretation.

A request can be overly broad when it is so inclusive that the public office is unable to identify the records sought based on the manner in which the office routinely organizes and accesses records. The courts have also found a request overly broad when it seeks what amounts to a complete duplication of a major category of a public office's records. Examples of overly broad requests include requests for:

All records containing particular names or words; (Example: "All records regarding Fishburg Road.")

All emails sent or received by a particular email address with no subject matter and time limitation; (Example: "All emails between the City Manager and Councilmember X.")

Records regarding a specific topic, but excluding a subcategory; (Example: "All police reports for the last two weeks, but excluding those involving misdemeanor offenses.")

If a request is deemed overly broad, the City will provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the City and accessed in the ordinary course.

The requestor does not have to put a records request in writing and does not have to provide his or her identity or the intended use of the requested public record. It is the City of Huber Heights' general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requestor's identity, and/or the intended use of the information requested, but ONLY (1) if a written request or disclosure of identity or intended use would benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; AND (2) after telling the requestor that a written request is not required and that the requestor may decline to reveal the requestor's identity or intended use.

Requests for public records may be written or oral. If a public records request is made orally, the City employee receiving the request will write down the request on Public Records Request Form and read it back to the requestor to make sure the request is accurate. If a public records request is made in writing, the City employee will indicate the date the request was received on the Public Records Request Form and the written request shall be attached to the Public Records Request Form. All public records requests received by a City employee shall be forwarded to the appropriate Public Records Administrator for the City for further processing and response.

In processing the request, the Public Records Administrator does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. ~~Although not required by law, the City of Huber Heights may accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.~~

A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website at [www.ohioattorneygeneral.gov](http://www.ohioattorneygeneral.gov) for the purpose of keeping employees of the City of Huber Heights and the public educated as to the City's obligations under the Ohio Public Records Act and the Open Meetings Act.

The policy of the City of Huber Heights is to never duplicate requested copies of public records on the requestor's provided CDs, DVDs, flash devices, or other devices. The risks of unintended contamination of the internal computer systems of the City are too great. The City of Huber Heights will always duplicate requested copies of public records on CDs, DVDs, flash devices, or other devices provided by the City.

Requests for Inspection. All requests to inspect public records shall be forwarded to the Public Records Administrator for processing. Upon request for inspection of public records, the request shall be promptly complied with and the public records shall be made available for inspection by the City of Huber Heights at all reasonable times during regular business hours. The inspection may not be immediate if the requested record contains information that may need to be redacted. The City may require that a City employee be present during the inspection, but shall not deny an inspection if no employee is available. In processing a request for inspection of a public record, a City employee's presence with the request or during the inspection is to make certain original records are not taken or altered.

Requests for Copying. Upon request for copying of public records, the request shall be promptly complied with and the public records shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Mailing. Upon request for mailing of public records, the request shall be promptly complied with and the public records mailed by a City employee within a reasonable amount of time, provided the requestor has provided the necessary mailing information.

Requests for Video and Audio. Upon request for video and audio public records, the request shall be promptly complied with and the video and audio public records shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Photographs. Upon request for photographs that are public records, the request shall be promptly complied with and the photographs shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Electronic Media. Upon request for electronic media of public records, the request shall be promptly complied with and the electronic media copied by a City employee and made available within a reasonable amount of time. The requestor may choose to have the public records duplicated (i) upon paper, (ii) upon the same medium upon which the City keeps the record, or (iii) on any other medium the City determines it can be reasonably duplicated as an integral part of the normal operations of the City.

## **ELECTRONIC RECORDS**

Records in the form of email, text messaging, and instant messaging, including those sent and received via handheld communications devices are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of the City of Huber Heights are required to retain their email records and other electronic records in accordance with applicable Records Retention Schedules.

## **DENIAL OR REDACTION OF RECORDS**

Determining that requested documents or that certain information contained in requested documents is not a public record and therefore not subject to disclosure or that a public record or information contained therein is exempt from disclosure is a serious action. Accordingly, all decisions to deny a public records request or to redact information from public records, (other than routine redactions that are made on all similar documents) which is also a denial shall be executed by and signed off on by the Public Records Administrator or the City Manager. Routine redactions include but are not limited to redacting social security numbers, protected personal information, witness information from police records.

If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City of Huber Heights shall make available all of the information within the public record that is not exempt. If portions of a public record are public and other portions of a public record are exempt, the exempt portions may be redacted, and the rest of the public record released.

If it is not clear whether the public record is one that can be released, the requestor should be told that it is not clear if a public record can be released and that the City will allow inspection or



provide copies to the extent permissible as soon as the Public Records Administrator in conjunction with the Law Director has had the opportunity to review the request.

Redacting information from a public record is considered a denial of a public record. When making a public record available for public inspection or copying that has had information redacted, the City shall notify the requestor of the redaction or make the redaction plainly visible.

If a public records request is ultimately denied, in part or in whole (including any redactions), the Public Records Administrator shall complete a Denial/Redaction of Public Records Request Form and which provides the requestor with a written explanation, including legal authority, the reason why the request was denied or the information was redacted. Any denial of public records requested must include an explanation, including the legal authority for the denial of the public records. If the initial request was made in writing, the explanation must also be in writing. If the request was made orally, the requestor may be told orally why the request was denied.

If the requester makes an ambiguous or overly broad request or has difficulty in making a request for public records such that the Public Records Administrator processing the request cannot reasonably identify what public records are being requested, the request may be denied, but the denial must provide the requestor an opportunity to revise the request by informing the requestor of the manner in which records are maintained and accessed by the City of Huber Heights.

## **COPYING AND MAILING COSTS**

Those seeking public records may be charged only the actual cost of making or duplicating copies, not for labor costs. The costs for public records are outlined in the Public Records Fee Schedule.

A requestor may be required to pay in advance for costs involved in providing the copies of public records. The requestor may choose whether to have the record duplicated upon paper, on the same medium upon which the City keeps the record, or on any other medium the City determines it can reasonably be duplicated as an integral part of the normal operations of the City.

If a requestor asks that copies of public records be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for copies of public records that are emailed.

## **PUBLIC RECORD POLICY – LEGAL HOLD**

The concept of a "Legal Hold" has been around from the advent of modern-day jurisprudence. The concept of a "Legal Hold" as applied to a municipality is triggered when a municipality has *the first reasonable suspicion* that a claim may be asserted against it or that it has a claim to assert against a third-party.

The theory is that anything and everything that could reasonably be related to the litigation must be "held" by both parties to the litigation to ensure that all evidence reasonably related to the litigation is preserved.

The theory continues that the finders of fact (the Jury) and the applier of the law to the facts (the Court) will then have all available tools at their disposal to make their decision.

A "Legal Hold" is typically called for by Legal Counsel since typically Legal Counsel will be involved in any negotiations leading up to any litigation. (However, if the litigation comes out of nowhere and is totally unexpected the "Legal Hold" would automatically apply.)

**However, the triggering event, being when the City has the *first reasonable suspicion* may very easily be known by the City well in advance of the Law Director. It is imperative that the City consult with Legal Counsel when it does have the *first reasonable suspicion* that a claim may be asserted against it or that it has a claim to assert.**

Once the "Legal Hold" is applied ALL records in the possession of the City reasonably related to the litigation, including electronic records (or if litigation is imminent as determined by legal counsel) shall be retained or "held" by the City until the litigation is finally resolved.

Thus, regardless of what the City's Public Records Policy is with regard to retention and destruction of records, the "Legal Hold" requires that those applicable records *must be held for the life of the litigation*.

As an example, if a record under the Public Records Retention Schedule calls for that record to be retained for five years and the litigation lasts for seven years the pertinent record MUST BE HELD for the full seven years.

Certain electronic records have a very limited retention period and may be destroyed immediately when the retention period has expired. Nevertheless the "Legal Hold" in the above example will require that the short-term electronic records must be held for the full seven year life of the litigation.

Any questions with regard to the "Legal Hold" Policy should be directed to the Clerk of Council or the Law Director. *See the Legal Hold Policy of the City in the possession of the City Manager and the Clerk of Council.*

As Approved By Ordinance No. 2016-O-2236 on August 22, 2016 And Effective September 21, 2016.

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2019-O-

ADOPTING AND APPROVING A REVISED PUBLIC RECORDS POLICY FOR THE CITY OF HUBER HEIGHTS CONSISTENT WITH THE OHIO PUBLIC RECORDS LAW.

WHEREAS, the Public Records Policy for the City of Huber Heights was last updated in 2016; and

WHEREAS, the Public Records Commission and the City Council of Huber Heights have reviewed, considered and commented upon the revised policy.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. After due consideration, the City Council of Huber Heights has deemed it appropriate and necessary to revise, update and adopt the City Public Records Policy as more fully set forth in the attached Exhibit A.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance 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 taken in meetings open to the public and in conformance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A**  
**CITY OF HUBER HEIGHTS**  
**PUBLIC RECORDS POLICY**

**MISSION STATEMENT**

Openness leads to a better-informed citizenry, which leads to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of the City of Huber Heights as custodian of Public Records for and on behalf of the people to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act

**PURPOSE**

The City of Huber Heights maintains, for public view, many documents and records. In accordance with Ohio law and the Public Records Commission for the City of Huber Heights, Record Retention Schedules have been established for the City. The Records Retention Schedules list all of the records maintained by the City and the period of time for which these records are maintained. These records are maintained for the operation of City departments/divisions and to provide a source of information for the public. It is the primary goal of the City that it serves the citizens of Huber Heights in a manner of trust. These records, and the ability to have access to them, are a means to provide trust between citizens and the City of Huber Heights. The underlying purpose of the Huber Heights Public Records Policy is to provide for full and prompt disclosure of public records and assure that City employees take all reasonable steps to properly comply with requests for public records.

**DEFINING AND MAINTAINING PUBLIC RECORDS**

Public records are documents, devices or items kept by the City that meet both of the following: (1) they are created, received by, or coming under the jurisdiction of the City of Huber Heights; and (2) they document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office. Public records are available to the public unless the records are exempt from disclosure under Ohio law. All public records are organized and maintained in such a way that the records can be made available for inspection and copying. All public records shall be maintained in accordance with the Records Retention Schedules established by the City. Copies of the City's Records Retention Schedules are readily available to the public in the Clerk of Council's Office and on the City's website at [www.hhoh.org](http://www.hhoh.org) as required by Section 149.43(8)(2) of the Ohio Revised Code.

Just because the City has a document does not mean it is a public record. In addition to obvious non-records such as junk mail and electronic "spam," some items in the possession of the City do not meet the definition of a public record because the record does not document the activities of a public office. An item received by a public office is not a record simply because the public office could use the item to carry out its duties and responsibilities.

## **CUSTODIAN OF PUBLIC RECORDS**

The Police Chief is the Public Records Administrator for those public records maintained by the Police Division. The Fire Chief is the Public Records Administrator for those public records maintained by the Fire Division. The Clerk of Council is the Public Records Administrator for all of the public records maintained by the rest of the City. Department/division heads are the official *public records custodians* of all public records maintained within the departments/divisions.

In fulfilling the duties of the Public Records Administrator, the Public Records Administrator shall consult with the Law Director and City Manager as appropriate. All Public Records shall be maintained such that no release of Public Records from the custody of the City shall occur except as permitted by the Ohio Public Records Act and the Public Record Commission Retention and Destruction Schedules. *Failure to comply with the Public Record Policy of the City subjects the City to liability; thus, it is incumbent on the City, its employees and public officials and the Public Records Administrator to comply in all respects with the Public Records Law and the City Policy implementing the Public Records Act of the State of Ohio.*

## **RESPONSE TIMEFRAME**

Public records are to be available for inspection to any person at reasonable times during regular business hours, excluding legal holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested.

The regular business hours for City Hall are from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Police Division are from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Fire Division are from 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

It is the goal of the City of Huber Heights that all requests for public records should be acknowledged in writing or, if possible, satisfied within ten (10) business days following the City's receipt of the request.

## **HANDLING REQUESTS**

No specific language is required to make a request for public records. However, the requestor must at least identify the records requested with sufficient clarity to allow the City of Huber Heights to identify, retrieve, and review the records. If it is not clear what records are being sought, the City of Huber Heights must contact the requestor for clarification and should assist the requestor in revising the request by informing the requestor of the manner in which the City keeps its public records.

If after contacting the requestor for clarification, the request is still ambiguous or overly broad, the request may be denied.

An ambiguous request is one that lacks the clarity a public office needs to ascertain what the requester is seeking and where to look for records that might be responsive. This often occurs when the wording of the request is subject to interpretation.

A request can be overly broad when it is so inclusive that the public office is unable to identify the records sought based on the manner in which the office routinely organizes and accesses records. The courts have also found a request overly broad when it seeks what amounts to a complete duplication of a major category of a public office's records. Examples of overly broad requests include requests for:

All records containing particular names or words; (Example: "All records regarding Fishburg Road.")

All emails sent or received by a particular email address with no subject matter and time limitation; (Example: "All emails between the City Manager and Councilmember X.")

Records regarding a specific topic, but excluding a subcategory; (Example: "All police reports for the last two weeks, but excluding those involving misdemeanor offenses.")

If a request is deemed overly broad, the City will provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the City and accessed in the ordinary course.

The requestor does not have to put a records request in writing and does not have to provide his or her identity or the intended use of the requested public record. It is the City of Huber Heights' general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requestor's identity, and/or the intended use of the information requested, but ONLY (1) if a written request or disclosure of identity or intended use would benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; AND (2) after telling the requestor that a written request is not required and that the requester may decline to reveal the requestor's identity or intended use.

Requests for public records may be written or oral. If a public records request is made orally, the City employee receiving the request will write down the request on Public Records Request Form and read it back to the requestor to make sure the request is accurate. If a public records request is made in writing, the City employee will indicate the date the request was received on the Public Records Request Form and the written request shall be attached to the Public Records Request Form. All public records requests received by a City employee shall be forwarded to the appropriate Public Records Administrator for the City for further processing and response.

In processing the request, the Public Records Administrator does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to

exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying.

A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website at [www.ohioattorneygeneral.gov](http://www.ohioattorneygeneral.gov) for the purpose of keeping employees of the City of Huber Heights and the public educated as to the City's obligations under the Ohio Public Records Act and the Open Meetings Act.

The policy of the City of Huber Heights is to never duplicate requested copies of public records on the requestor's provided CDs, DVDs, flash devices, or other devices. The risks of unintended contamination of the internal computer systems of the City are too great. The City of Huber Heights will always duplicate requested copies of public records on CDs, DVDs, flash devices, or other devices provided by the City.

Requests for Inspection. All requests to inspect public records shall be forwarded to the Public Records Administrator for processing. Upon request for inspection of public records, the request shall be promptly complied with and the public records shall be made available for inspection by the City of Huber Heights at all reasonable times during regular business hours. The inspection may not be immediate if the requested record contains information that may need to be redacted. The City may require that a City employee be present during the inspection, but shall not deny an inspection if no employee is available. In processing a request for inspection of a public record, a City employee's presence with the request or during the inspection is to make certain original records are not taken or altered.

Requests for Copying. Upon request for copying of public records, the request shall be promptly complied with and the public records shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Mailing. Upon request for mailing of public records, the request shall be promptly complied with and the public records mailed by a City employee within a reasonable amount of time, provided the requestor has provided the necessary mailing information.

Requests for Video and Audio. Upon request for video and audio public records, the request shall be promptly complied with and the video and audio public records shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Photographs. Upon request for photographs that are public records, the request shall be promptly complied with and the photographs shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Electronic Media. Upon request for electronic media of public records, the request shall be promptly complied with and the electronic media copied by a City employee and made available within a reasonable amount of time. The requestor may choose to have the public records duplicated (i) upon paper, (ii) upon the same medium upon which the City keeps the record, or (iii) on any other medium the City determines it can be reasonably duplicated as an integral part of the normal operations of the City.

## **ELECTRONIC RECORDS**

Records in the form of email, text messaging, and instant messaging, including those sent and received via handheld communications devices are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of the City of Huber Heights are required to retain their email records and other electronic records in accordance with applicable Records Retention Schedules.

## **DENIAL OR REDACTION OF RECORDS**

Determining that requested documents or that certain information contained in requested documents is not a public record and therefore not subject to disclosure or that a public record or information contained therein is exempt from disclosure is a serious action. Accordingly, all decisions to deny a public records request or to redact information from public records, (other than routine redactions that are made on all similar documents) which is also a denial shall be executed by and signed off on by the Public Records Administrator or the City Manager. Routine redactions include but are not limited to redacting social security numbers, protected personal information, witness information from police records.

If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City of Huber Heights shall make available all of the information within the public record that is not exempt. If portions of a public record are public and other portions of a public record are exempt, the exempt portions may be redacted, and the rest of the public record released.

If it is not clear whether the public record is one that can be released, the requestor should be told that it is not clear if a public record can be released and that the City will allow inspection or provide copies to the extent permissible as soon as the Public Records Administrator in conjunction with the Law Director has had the opportunity to review the request.

Redacting information from a public record is considered a denial of a public record. When making a public record available for public inspection or copying that has had information redacted, the City shall notify the requestor of the redaction or make the redaction plainly visible.

If a public records request is ultimately denied, in part or in whole (including any redactions), the Public Records Administrator shall complete a Denial/Redaction of Public Records Request Form and which provides the requestor with a written explanation, including legal authority, the reason why the request was denied, or the information was redacted. Any denial of public records requested must include an explanation, including the legal authority for the denial of the public records. If the initial request was made in writing, the explanation must also be in writing. If the request was made orally, the requestor may be told orally why the request was denied.



If the requester makes an ambiguous or overly broad request or has difficulty in making a request for public records such that the Public Records Administrator processing the request cannot reasonably identify what public records are being requested, the request may be denied, but the denial must provide the requestor an opportunity to revise the request by informing the requestor of the manner in which records are maintained and accessed by the City of Huber Heights.

## **COPYING AND MAILING COSTS**

Those seeking public records may be charged only the actual cost of making or duplicating copies, not for labor costs. The costs for public records are outlined in the Public Records Fee Schedule.

A requestor may be required to pay in advance for costs involved in providing the copies of public records. The requestor may choose whether to have the record duplicated upon paper, on the same medium upon which the City keeps the record, or on any other medium the City determines it can reasonably be duplicated as an integral part of the normal operations of the City.

If a requestor asks that copies of public records be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for copies of public records that are emailed.

## **PUBLIC RECORD POLICY – LEGAL HOLD**

The concept of a "Legal Hold" has been around from the advent of modern-day jurisprudence. The concept of a "Legal Hold" as applied to a municipality is triggered when a municipality has *the first reasonable suspicion* that a claim may be asserted against it or that it has a claim to assert against a third-party.

The theory is that anything and everything that could reasonably be related to the litigation must be "held" by both parties to the litigation to ensure that all evidence reasonably related to the litigation is preserved.

The theory continues that the finders of fact (the Jury) and the applier of the law to the facts (the Court) will then have all available tools at their disposal to make their decision.

A "Legal Hold" is typically called for by Legal Counsel since typically Legal Counsel will be involved in any negotiations leading up to any litigation. (However, if the litigation comes out of nowhere and is totally unexpected the "Legal Hold" would automatically apply.)

**However, the triggering event, being when the City has the *first reasonable suspicion* may very easily be known by the City well in advance of the Law Director. It is imperative that the City consult with Legal Counsel when it does have the *first reasonable suspicion* that a claim may be asserted against it or that it has a claim to assert.**

Once the "Legal Hold" is applied ALL records in the possession of the City reasonably related to the litigation, including electronic records (or if litigation is imminent as determined by legal counsel) shall be retained or "held" by the City until the litigation is finally resolved.

Thus, regardless of what the City's Public Records Policy is with regard to retention and destruction of records, the "Legal Hold" requires that those applicable records *must be held for the life of the litigation*.

As an example, if a record under the Public Records Retention Schedule calls for that record to be retained for five years and the litigation lasts for seven years the pertinent record MUST BE HELD for the full seven years.

Certain electronic records have a very limited retention period and may be destroyed immediately when the retention period has expired. Nevertheless the "Legal Hold" in the above example will require that the short-term electronic records must be held for the full seven-year life of the litigation.

Any questions with regard to the "Legal Hold" Policy should be directed to the Clerk of Council or the Law Director. *See the Legal Hold Policy of the City in the possession of the City Manager and the Clerk of Council.*

As Approved By Ordinance No. 2019-O-\_\_\_\_ on \_\_\_\_\_ And  
Effective \_\_\_\_\_.

**AI-6514**

**City Council Meeting**

**New Business     A.  
City Manager**

**Meeting Date:** 08/26/2019

Huber Heights Veterans Memorial

**Submitted By:** Rob Schommer

**Department:** City Manager

**Council Committee Review?:** Council Work Session     **Date(s) of Committee Review:** 08/05/2019 and 08/20/2019

**Audio-Visual Needs:** None     **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Motion To Reconsider A Resolution Generally Approving The Addition Of A New Amenity To The City's Parks And Recreation Facilities By Constructing A Veterans Memorial To Be Located Within The Center Of Thomas Cloud Memorial Park On Brandt Pike To Include Among Other Things, Monuments, Plaques, Pathways, Landscaping, Benches, Signage And Other Necessary Appurtenances.  
(first reading)

**Purpose and Background**

City Council authorized the creation of the Huber Heights Military and Veterans Commission, and the Commission has recommended the creation of a Veterans Memorial located within Thomas Cloud Park. City Council has determined that the proposed Veterans Memorial would be a valuable asset to the City and its parks and recreation facilities and this Resolution official denotes the Veterans Memorial as a City Project.

This Resolution authorizes the design of the Veterans Memorial to develop the project budget and timeline. Subsequent authorization by City Council will be sought for approval of the budget and construction once design and cost estimates are received.

At the August 20, 2019 Council Work Session, the City Council agreed to have a motion to reconsider this resolution on the agenda for the August 26, 2019 City Council Meeting. The motion to adopt this resolution failed at the August 13, 2019 City Council Meeting.

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**Fiscal Impact**

**Source of Funds:** TBD

**Cost:** TBD

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** TBD

**Financial Implications:**

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**Attachments**

Resolution

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2019-R-

GENERALLY APPROVING THE ADDITION OF A NEW AMENITY TO THE CITY'S PARKS AND RECREATION FACILITIES BY CONSTRUCTING A VETERANS MEMORIAL TO BE LOCATED WITHIN THE CENTER OF THOMAS CLOUD MEMORIAL PARK ON BRANDT PIKE TO INCLUDE AMONG OTHER THINGS, MONUMENTS, PLAQUES, PATHWAYS, LANDSCAPING, BENCHES, SIGNAGE AND OTHER NECESSARY APPURTENANCES.

WHEREAS, City Council authorized the creation of the Huber Heights Military and Veterans Commission, and

WHEREAS, the Military and Veterans Commission has recommended the creation of a Veterans Memorial located within Thomas Cloud Park; and

WHEREAS, City Council has determined that the proposed Veterans Memorial would be a valuable asset to the City and its parks and recreation facilities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. City Council hereby authorizes and creates the Veterans Memorial project and authorize the City Manager or his designee to work with City Staff, community volunteers, and such other parties as he deems necessary and to take all necessary actions, including but not limited to, the purchase of labor and materials and the execution of contracts and agreements on behalf of the City that are not adverse to the best interest of the City, for the design and placement of a Veterans Memorial within Thomas Cloud Memorial Park.

Section 2. Council authorizes and approves the budget and expenditure of money for such design purposes as stated in the purchasing procedures established by the Huber Heights Codified Ordinances.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-6521**

**City Council Meeting**

**New Business    B.  
City Manager**

**Meeting Date:** 08/26/2019

Montgomery County Intermunicipal Waste Services Agreement

**Submitted By:** Jamie Frey

**Department:** City Manager

**Council Committee Review?:** Council Work Session    **Date(s) of Committee Review:** 08/20/2019

**Audio-Visual Needs:** None    **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Resolution Approving The Montgomery County Intermunicipal Waste Services Agreement.  
(first reading)

**Purpose and Background**

This legislation authorizes City Manager to enter into the Intermunicipal Waste Services Agreement, as proposed by the Solid Waste Management Policy Committee for waste services. Gerald McDonald amended the agreement by adding Article XVII to address the portion of Huber Heights that is in Miami County.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Resolution

Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2019-R-

APPROVING THE MONTGOMERY COUNTY INTERMUNICIPAL WASTE SERVICES AGREEMENT.

WHEREAS, the Montgomery County Solid Waste Management District, by its Solid Waste Management Policy Committee, has adopted a Solid Waste Management Plan for the District; and

WHEREAS, the City Council of the City of Huber Heights has reviewed the agreement; and

WHEREAS, this agreement supersedes the 1985 Waste Delivery and Disposal Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The Montgomery County Intermunicipal Waste Services Agreement, as proposed by the Solid Waste Management Policy Committee on August 29, 2018, attached hereto as Exhibit A is hereby approved.

Section 2. Council authorizes the City Manager, or his designee, to enter into the Montgomery County Intermunicipal Waste Services Agreement as proposed by the Solid Waste Management Policy Committee for waste services.

Section 3. It is hereby 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 deliberations of this Council and of any of its Committees that resulted in such formal action were taken in meetings open to the public and in conformance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A**

**MONTGOMERY COUNTY-INTERMUNICIPAL WASTE SERVICES AGREEMENT**

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**Between the**  
**COUNTY OF MONTGOMERY**  
**And**  
**City of Huber Heights**

**Dated as of \_\_\_\_\_, 2019**

# **MONTGOMERY COUNTY-INTERMUNICIPAL WASTE SERVICES AGREEMENT**

## **INTRODUCTION**

This Montgomery County-Intermunicipal Waste Services Agreement (the "Agreement") is entered as of \_\_\_\_\_, 2019 by the County of Montgomery, Ohio (the "County"), acting by and through its Board of County Commissioners (the "Board") and on behalf of the Montgomery County Waste District (the "District"), and City of Huber Heights, a political subdivision of the State of Ohio and a member of the District (the "District Member"). This Agreement arises in the following context:

The Board and the District Members entered into the previous Waste Delivery and Disposal Agreement in 1985, which was subsequently amended. With the desire to replace the 1985 Waste Delivery and Disposal Agreement, and the intent to be legally bound, the County and District Member agree as follows:

## **ARTICLE I**

### **PRIOR AGREEMENTS SUPERCEDED**

1.1 This Agreement supersedes the 1985 Waste Delivery and Disposal Agreement, as amended, and all other agreements between the County and the District Member relating to the management of Disposable Solid Waste. Said agreements are hereby terminated as of the Effective Date of this Agreement, which is the date specified in Section 8.1 of this Agreement.

## **ARTICLE II**

### **DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings set forth below:

***Annual Property Charge*** means the charge established by the Board and assessed annually with respect to the cost of the County's solid waste management infrastructure and services upon the owner of each lot within the County insofar as the lot currently has, or is in the process of being improved with, at least one permanent, portable, or temporary building.



***Debt Obligations*** means any bond, note, certificate of indebtedness, or other indebtedness of the County issued prior to or subsequent to the date of this Agreement with respect to the Solid Waste Processing and Transfer Facilities, including any obligation or portion thereof issued to refinance or refund any previously issued indebtedness of the County with respect to the Solid Waste Processing and Transfer Facilities.

***Debt Service*** means the required installment payments of the principal amount of Debt Obligations, together with interest on Debt Obligations and any premium.

***Disposable Solid Waste*** means all trash or rubbish ordinarily produced by a family or other household at its private residence, including without limitation single- and multiple-household dwellings as well as waste from any commercial, agricultural or industrial activity conducted on those premises insofar as the waste is similar in composition and quantity to domestic waste from a household, and similar general municipal wastes generated in offices, restaurants, hospitals, retail establishments, and other businesses and industry insofar as such trash, rubbish or waste is similar to household waste and generated from a source within the political boundaries of the County. Disposable Solid Waste includes Yardwaste and White Goods, as defined herein, but excludes Unacceptable Waste and “source separated recyclable materials,” as that term is defined Section 343.01(M)(1) of the Ohio Revised Code, including source separated Yardwaste. Disposable Solid Waste includes other wastes if deemed acceptable by the County under this Agreement.

***District Member*** means each political subdivision, other than the County, that obligates itself to deliver Disposable Solid Waste to the Solid Waste Processing and Transfer Facilities pursuant to this Agreement or another agreement with terms substantially similar to those in this Agreement.

***Financing Requirements*** means, with respect to Debt Obligations, the Debt Service on such obligations as it is due and payable on specified dates and, insofar as they are not otherwise included in Debt Service, each of the following: (a) prorated fees representing financing costs (either initial or ongoing) of the County; and (b) the funding of any reserve, replacement, working capital or similar funds required by any instrument that specifies the County’s duties

with respect to the Debt Obligations. “Financing Requirements” also includes any payments or deposits of funds in addition to operation and maintenance expenses and Debt Service that are required under any indenture or other instrument issued in conjunction with the Debt Obligations.

***Operational Rules*** means the Montgomery County Solid Waste District Operational Rules adopted by the Board, as they may change from time-to-time, for the operation and management of the District including without limitation operation and management of the Solid Waste Processing and Transfer Facilities.

***Solid Waste Management Plan*** means the Plan adopted in accordance with Section 3734.54 *et seq.* of the Ohio Revised Code.

***Solid Waste Processing and Transfer Facilities*** means all facilities, buildings, property, and supporting appurtenances owned, operated, managed, identified, designated or otherwise approved by rule or resolution of the Board, as they may change from time-to-time, for management, processing or other disposition of Disposable Solid Waste, and includes, by way of example and without limitation, such equipment as may be required to transport Disposable Solid Waste to processing and recycling facilities, landfills and other disposal sites, all supporting equipment and appurtenances, combustion equipment and supporting appurtenances, as well as such recovery equipment as may be installed to recover or recycle any materials or energy from Disposable Solid Waste.

***Tipping Fee*** means the per unit charge or charges (such as a per ton amount) levied by and assessed by the County for Disposable Solid Waste delivered to the Solid Waste Processing and Transfer Facilities.

***Unacceptable Waste*** has the meaning set forth in the Operational Rules.

***White Goods*** means articles of Disposable Solid Waste that may require special handling and management, including stoves, ranges, refrigerators (including refrigerants contained therein such as chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs)), dishwashers, and other appliances similar to those listed above.

*Yardwaste* means discarded organic material such as wood chips, branches, leaves, flowers, shrubs, grass and other similar organic material.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES**

3.1 The County represents and warrants to the District Member that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the County's governing body and that the Agreement constitutes a legal, valid and binding obligation of the County in accordance with its terms.

3.2 The District Member represents and warrants to the County that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the District Member's governing body, is fully consistent with the laws, rules and ordinances of the District Member, and that this Agreement constitutes a legal, valid and binding obligation of the District Member in accordance with its terms.

3.3 The County represents and warrants to the District Member, and the District Member represents and warrants to the County, that to the best of each of their knowledge there is no pending or threatened litigation or government proceeding that would adversely affect the performance of their respective obligations under this Agreement.

### **ARTICLE IV**

#### **OBLIGATIONS OF THE COUNTY**

4.1 The County shall accept or cause to be accepted from the District Member at the Solid Waste Processing and Transfer Facilities all Disposable Solid Waste generated from within the boundaries of the District Member, and shall arrange for environmentally sound and otherwise proper processing, disposal or other management of all of the Disposable Solid Waste that is delivered to the Solid Waste Processing and Transfer Facilities.

4.2 (a) To the extent the District Member's performance under this Agreement results in the District Member or the District incurring liability and associated costs under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-9675 (commonly known as "Superfund liability"), all such costs, including all expenses of litigation or settlement, shall be treated, subject to Section 4.2(b) hereof, as obligations of the District on the same basis as other obligations of the District under this Agreement.

(b) Pursuant to Ohio Revised Code Section 5705.44, funds for satisfaction of the obligations described in Section 4.2(a) shall be expended only from earnings of the District as currently deposited into Montgomery County Treasury Sub-Fund 559, a sub-fund of Montgomery County Treasury Fund 299, or a successor or substitute fund or sub-fund used for a similar purpose. These obligations shall be limited to earnings of the District that have been deposited in Sub-Fund 559 or successor or substitute fund or sub-fund used for a similar purpose, and the obligations shall not exceed the amount of earnings of the District that have been deposited into the above-referenced fund(s) or sub-fund(s).

4.3 The County shall establish and collect, and from time-to-time revise and update as necessary, Annual Property Charges and Tipping Fees sufficient to recover all of the costs incurred and expenditures made to operate and maintain the Solid Waste Processing and Transfer Facilities. The cost recovered through the Annual Property Charges and Tipping Fees include without limitation: (a) all costs for operation and maintenance for the Solid Waste Processing and Transfer Facilities; (b) the Financing Requirements; (c) and sufficient reserves, as determined by the County in its sole discretion, for future maintenance, repair and replacement of the Solid Waste Processing and Transfer Facilities including all associated equipment and structures.

4.4 The County shall maintain and enforce the Operational Rules.

4.5 The recommendations of the Solid Waste Advisory Committee ("SWAC"), which has been established by various Board resolutions, shall be considered by the County prior to its

adoption of Annual Property Charges and Tipping Fees to which Section 4.3 refers and the Operational Rules to which Section 4.4 refers.

4.6 In the unlikely event that the Solid Waste Processing and Transfer Facilities are not available to receive Disposable Solid Waste, the District Member, as directed by the County, shall undertake reasonable efforts to deliver or cause delivery of such Disposable Solid Waste to an alternative facility (or facilities) designated by the County for waste processing and transportation. In the circumstances described in the preceding sentence, the following shall apply:

- (a) If the District Member collects Disposable Solid Waste generated within the District Member's political boundaries, it shall continue to pay the applicable Tipping Fees and the County shall (i) pay the applicable charges with respect to such alternative facility and (ii) credit a subsequent invoice to the District Member for Tipping Fees with the substantiated amount of unavoidable costs or expenses, if any, the District Member incurred for waste transportation due to use of such alternative facility.
- (b) Alternatively, if the District Member contracts with a commercial hauling company for collection of Disposable Solid Waste generated within the District Member's political boundaries, and use of the alternative facility causes the hauler to incur substantiated and unavoidable costs or expenses that it would not otherwise have incurred, the County will reimburse the District Member insofar as it is contractually obligated to reimburse the hauler for such costs.

## **ARTICLE V**

### **OBLIGATIONS OF DISTRICT MEMBERS**

5.1 The District Member shall deliver or cause to be delivered to the Solid Waste Processing and Transfer Facilities, or other such facilities as the County may designate as set forth in Section 4.6 of this Agreement, all Disposable Solid Waste generated or collected within the District Member's political boundaries. The District Member, however, shall not deliver or

cause the delivery of any Unacceptable Waste or other types of solid waste, refuse or garbage for which delivery to the Solid Waste Processing and Transfer Facilities is prohibited pursuant to the Operational Rules.

5.2 The District Member agrees to pay the Tipping Fees established by the County, which may be modified by the County from time-to-time, for all Disposable Solid Waste delivered to the Solid Waste Processing and Transfer Facilities by or on behalf of the District Member.

5.3 The District Member further agrees to take such steps as are necessary to cause private collectors and haulers of Disposable Solid Waste operating within the District Member's political boundaries to deliver to the Solid Waste Processing and Transfer Facilities, or such other facilities as the County may reasonably designate in the event that the Solid Waste Processing and Transfer Facilities are unavailable, all Disposable Solid Waste the private collectors and haulers collect within the political boundaries of the District Member and to pay the Tipping Fees established by the County, as the Tipping Fees may be modified by the County from time-to-time. The above-stated obligation for delivery of Disposable Solid Waste and payment of the associated Tipping Fees shall be included as a contract term if the District Member contracts with a private hauler or collector for collection of Disposable Solid Waste generated within the District Member's political boundaries. In the event that a District Member does not contract with a private hauler or collector for collection of Disposable Solid Waste, nothing in this Agreement is intended to depart from the restriction in Ohio Revised Code § 343.01(I)(2) on the applicability of designation authority with respect to source separated recyclable materials. Payment of Tipping Fees by a private collector and hauler shall satisfy the obligation of the District Member to pay Tipping Fees as required by Section 5.2.

5.4 If at any time during the term of this Agreement (i) a District Member does not have a fully operative contract with a private hauler or collector for collection of all Disposable Solid Waste generated within the District Member's political boundaries and (ii) the County's Director of Environmental Services (or another County representative with comparable responsibility for administration of this Agreement) advises the District Member that a private

hauler or collector collecting Disposable Solid Waste generated within the District Member's political boundaries is not delivering all such Disposable Solid Waste to the Solid Waste Processing and Transfer Facilities, the District Member shall within 120 days thereafter, unless otherwise agreed to in writing by the County, enter a contract with a private hauler or collector for collection of all Disposable Solid Waste generated within the District Member's political boundaries and delivery of that Disposable Solid Waste to the Solid Waste Processing and Transfer Facilities.

5.5 The County and the District Member expressly recognize that the County is a third party beneficiary of the District Member's agreement with each private hauler or collector for collection of Disposable Solid Waste, and the County is entitled to enforce the delivery requirements of those agreements on the same basis as the District Member as if the County would be a party to the agreements.

## **ARTICLE VI**

### **FORCE MAJEURE**

6.1 For the purposes of this Article VI, the term Force Majeure shall mean any cause beyond the reasonable control of the party whose performance is affected, including without limitation acts of God, war, riot, fire, explosion, wind storm, flooding, labor disputes, military or usurped power, sabotage, inability to obtain or use fuel, power or raw materials, shortage or failure of the usual means of transportation, court injunction, accident or breakdown of machinery or equipment, or action taken by any governmental authority which prevents or hinders performance of the parties' obligations under this Agreement (except insofar as the governmental action in question was taken by the County or the District Member).

6.2 In fulfilling the obligations hereunder, except with regard to the payment of Tipping Fees by the District Member, neither the County nor the District Member shall be liable for delay or failure to perform caused by reason of Force Majeure. The District Member's obligations to deliver Disposable Solid Waste, as required hereunder, and the County's obligations to accept Disposable Solid Waste in accordance with the terms and conditions hereof,

shall be suspended, respectively, for the period of the Force Majeure event and the respective party's time for performance shall be extended accordingly. The obligation to pay Tipping Fees shall not be affected in any way by reason of Force Majeure.

6.3 In the event of any delay in performance caused by Force Majeure, the affected party shall notify the other by telephone within 2 business days of the onset of the Force Majeure event and provide written confirmation within 7 business day of the onset of the Force Majeure event. The telephone notification and written confirmation shall identify: (i) the date on which the Force Majeure event commenced; (ii) its estimated duration; and (iii) its estimated impact, including cost impact, on the party's respective obligations under this Agreement.

6.4 If, due to Force Majeure, either the County or a District Member shall have been excused for a period of time from performance of its obligations under this Agreement and is able to commence or resume performance in accordance with the provisions hereof, the County shall cooperate with the District Member and use its best efforts to accept at the Solid Waste Processing and Transfer Facilities all of the Disposable Solid Waste the District Member accumulated during the period of the excused performance, provided that receipt and processing of the accumulated Disposable Solid Waste at the Solid Waste Processing and Transfer Facilities can be implemented in a manner that is: (i) within the design limitations of the Solid Waste Processing and Transfer Facilities; (ii) efficient, sanitary and consistent with the contractual obligations of the County to others with respect to availability of the Solid Waste Processing and Transfer Facilities; and (iii) is not contrary to or in violation of any permit, law, regulation, ordinance, or order of any federal, state or local authority or agency thereof (except for any law, regulation, ordinance or order of the District Member), or any applicable and legally binding judicial decision or order.

## **ARTICLE VII**

### **DISPUTE RESOLUTION**

7.1 If any dispute arises between the County and the District Member concerning this Agreement, they shall use their best efforts to resolve the dispute by mutual agreement.



7.2 In the event of such claim, controversy or other dispute between the County and the District Member arising out of or relating to this Agreement, representatives of the County and the District Member authorized to resolve the dispute shall meet in person and make a good faith effort to negotiate a settlement of such dispute. Unless otherwise agreed by the parties, the meeting shall take place within 5 business days of the adverse party's receipt from the other party of a written notice of the dispute. If the dispute is not resolved at the meeting, and absent an agreement by both parties to continue the informal dispute resolution process, either party can declare the informal dispute resolution process ended with respect to the matters at issue. No statement, written or oral, made by any representative of either party during the informal dispute resolution process shall be admitted into evidence for any purpose during any subsequent litigation, regardless of whether the litigation is in court or before an arbitrator.

7.3 Notwithstanding the foregoing, the informal process for dispute resolution shall not prevent either party from pursuing limited judicial remedies where immediate action is necessary to prevent irreparable injury.

7.4 Absent informal resolution of a dispute, the County and the District Member can agree to arbitrate any dispute arising out of this Agreement. Unless otherwise agreed in writing, the County and the District Member shall continue to perform their respective obligations under this Agreement during any arbitration proceeding.

7.5 Subject to Sections 7.1 and 7.2, nothing in this Agreement restricts the rights of the County or the District Member to pursue all remedies available at law or equity for protection and enforcement of their respective rights under this Agreement.

7.6 The rights, obligations, and remedies of the parties under this Agreement shall be interpreted and governed in all respects by the laws of the State of Ohio. Any litigation concerning any dispute that arises out of or relates to this Agreement or the breach thereof, whether arising at law or in equity, based upon statutory or common law, or asserting claims based on contract, tort or otherwise, shall be brought and conducted exclusively in a court of the State of Ohio in Montgomery County, Ohio.

**ARTICLE VIII**  
**TERM OF AGREEMENT**

8.1 The term of this Agreement shall commence on the date that it is executed by the Board on behalf of the County (“the Effective Date”) and shall continue until the following, which is referred to below as the “Termination Date”: 20 years from the date that the County executes this Agreement. This Agreement shall continue automatically beyond the Termination Date unless either the County or the District Member elects to terminate this Agreement after having provided to the other not less than one year’s prior written notice of the election.

**ARTICLE IX**  
**NON-WAIVER**

9.1 The waiver by either party of any default or breach of any provision of this Agreement by the other party, regardless of whether the waiver is agreed to in writing or the result of inaction by the non-defaulting (non-breaching) party, shall not operate or be construed to operate as a waiver of any subsequent default or breach or otherwise affect the rights of the waiving party with respect to any subsequent default or subsequent breach of this Agreement.

**ARTICLE X**  
**AMENDMENTS, CHANGES AND MODIFICATIONS**

10.1 This Agreement shall not be amended except in writing signed on behalf of the County and the District Member. No amendment shall become effective except upon the execution of substantially similar amendments by each District Member listed in the resolution of the Board authorizing the execution of this Agreement.

10.2 No amendment to this Agreement shall be effective in the absence of a certificate issued by the appropriate trustees under any indentures securing any Debt Obligations affirming that no covenants in such indentures will be violated by reason of the amendment.

10.3 The Board shall not finance or construct capital improvements, including new or additional facilities to replace or supplement the Solid Waste Processing and Transfer Facilities, prior to submitting to the Financial Advisory Committee ("FAC") and SWAC the Board's plans for those capital improvements and requesting recommendations from the FAC and SWAC with respect to the planned capital improvements, which follows the current established procedure as of the Effective Date.

## **ARTICLE XI**

### **NOTICES AND CORRESPONDENCE**

11.1 All notices pertaining to or affecting performance under this Agreement shall be in writing. While email is encouraged, all notifications shall also be delivered in person or sent by certified mail return receipt requested to the parties as shown below:

***For the County:***

Email: \_\_\_\_\_

Postal address: \_\_\_\_\_

Address for hand-delivery: \_\_\_\_\_

***For the District Member:***

Email: \_\_\_\_\_

Postal address: \_\_\_\_\_

Address for hand-delivery: \_\_\_\_\_

The parties are free to change the preceding information by providing notice of the change (or changes) by certified mail. The changes shall become effective 5 days from the other party's receipt of the notice.

**ARTICLE XII**  
**ASSIGNMENT**

12.1 Except as otherwise provided in this Section 12.1, the rights and obligations of the County or the District Member under this Agreement may be assigned by the County or the District Member. Notwithstanding any such assignment, the County and the District Member, respectively, shall remain liable for all of their obligations under this Agreement except insofar as, and only to the extent that, either may be expressly released of a portion or all of its obligations hereunder by the other party. No assignment hereunder shall be permitted in any case where doing so adversely affects the tax-exempt status of any Debt Obligations or violates any provision of any instrument authorizing or securing any Debt Obligation. In addition, no assignment by a District Member is permitted where such assignment would result in downgrading the credit rating assigned to any Debt Obligations by any nationally recognized credit rating agency.

**ARTICLE XIII**  
**INTEGRATED AGREEMENT**

13.1 This Agreement, including the recitals hereto, constitutes the entire understanding of the parties with respect to the subject matter and supersedes all prior agreements and negotiations. The parties hereby affirm that the terms, conditions and provisions of this Agreement, and any amendments that may be entered in accordance with its terms, conditions and provisions, shall govern the obligations of the parties.

**ARTICLE XIV**  
**BINDING EFFECT**

14.1 This Agreement shall inure to the benefit of and shall be binding upon the County and the District Member and their respective legal successors. Any obligations of the County created by or arising out of this Agreement shall be payable out of revenue received from

payment of Annual Property Charges and Tipping Fees and, in the sole discretion of County, from any other source deemed legal and appropriate by the County. Any obligations of the District Member created by or arising out of this Agreement shall be payable from whatever source is deemed legal and appropriate by the District Member.

**ARTICLE XV**  
**SEVERABILITY**

15.1 In the event that any provision of this Agreement be held invalid, illegal or unenforceable in any respect, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated. With respect to any invalidated provision of this Agreement, the parties hereto shall negotiate and in good faith agree to such amendments, modifications or supplements to this Agreement and shall, to the maximum extent practicable, implement and give effect to the intentions of the parties herein.

**ARTICLE XVI**  
**COUNTERPARTS**

16.1 This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which collectively shall constitute one and the same instrument.

**ARTICLE XVII**  
**MIAMI COUNTY**

17.1 The parties acknowledge that the District Member's corporate boundaries extend into Miami County. The Disposable Solid Waste covered under this Agreement includes all Disposable Solid Waste in the District Member's corporate boundaries.

IN WITNESS WHEREOF, the parties have hereunto set their hands on this \_\_ day of \_\_\_\_\_,  
2019

BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY, OHIO

\_\_\_\_\_  
Carolyn Rice, County Commissioner

\_\_\_\_\_  
Deborah A. Lieberman, County Commissioner

\_\_\_\_\_  
Judy Dodge, County Commissioner

By \_\_\_\_\_

Michael Colbert, County Administrator

APPROVED AS TO FORM

Mathias H. Heck, Jr., Prosecuting Attorney

By \_\_\_\_\_

Assistant Prosecuting Attorney

DISTRICT MEMBER

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

Title: \_\_\_\_\_

### Certification

This shall certify that the funds required to meet the municipality's (or township's) obligations set forth herein during the fiscal year in which this contract is made or obligation incurred, have been lawfully appropriated for such purpose and are in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrance. Ref. R.C. 5705.41.

\_\_\_\_\_  
(Municipality/Township)

\_\_\_\_\_  
Signature

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**AI-6513**

**New Business C.**

**City Council Meeting**

**City Manager**

**Meeting Date:** 08/26/2019

2020 U.S. Census Bureau Presentation - Complete Count Census Committee

**Submitted By:** Rob Schommer

**Department:** City Manager

**Council Committee Review?:** None **Date(s) of Committee Review:** 08/20/2019

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Resolution Creating The 2020 Complete Count Census Committee To Plan And Conduct Local Educational Initiatives, Publicity And Promotional Activities To Increase Community Awareness And Participation In The 2020 Census.

(first reading)

**Purpose and Background**

With the 2020 Census right around the corner, it is important the community does its job to ensure the most accurate and complete count of Huber Heights residents is conducted. There are many important objectives of the Census, a couple of which include:

- An accurate census is essential for the allocation of representatives to serve in the legislative bodies of the U.S. House of Representatives, the Ohio State Legislature, and within the City of Huber Heights and Montgomery County voting districts
- Accurate age, population and other ethnic and demographic information gathered every ten years within the census information is critical for the correct apportionment of certain federal funds for health, education, transportation, child and elder care, emergency preparation and response
- Accurate census information is critical to planning for future growth, development, and the social needs of the community

A Complete Count Committee (CCC) is a volunteer group that state and local governments and/or community leaders establish to increase awareness about the Census and motivate residents to respond to the census questionnaire.

CCC's will play a key role in ensuring the 2020 Census counts everyone. Residents are more likely to take part in the census count if they learn and understand the importance of it and the process for getting counted.

There are some key changes to the process for the 2020 Census. For instance, the Internet will be the primary response option for the first time. While a paper form will still be available, individuals will be able to complete the 2020 Census form online, or by phone or mail. CCC's will play a critical role in educating residents about these and other key changes to the Census.

By acting as census ambassadors and community liaisons, CCC's facilitate information flow between local government, communities, and the U.S. Census Bureau (Bureau). They play an important role in the complete and accurate count of their communities. Community leaders know how best to reach all populations in their area. The committees can also mobilize community resources in a highly efficient and cost-effective manner. The success of the 2020 Census depends on community involvement at



every level, and CCC's will be a vital tool.

This resolution will formally establish the Huber Heights 2020 Complete Count Census Committee to help Huber Heights contribute to the objectives of having an accurate count of the community.

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**Fiscal Impact**

<b>Source of Funds:</b>	N/A
<b>Cost:</b>	N/A
<b>Recurring Cost? (Yes/No):</b>	N/A
<b>Funds Available in Current Budget? (Yes/No):</b>	N/A
<b>Financial Implications:</b>	

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**Attachments**

Census Flyer  
Census FAQ  
Census Operational Overview  
Presentation  
Resolution

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# CENSUS 101: WHAT YOU NEED TO KNOW

The 2020 Census is closer than you think!  
Here's a quick refresher of what it is and why it's essential that everyone is counted.

## Everyone counts.

The census counts every person living in the U.S. once, only once, and in the right place.

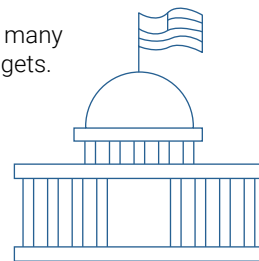


## It's in the Constitution.

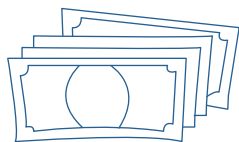
The U.S. Constitution requires a census every 10 years. The census covers the entire country and everyone living here. The first census was in 1790.

## It's about fair representation.

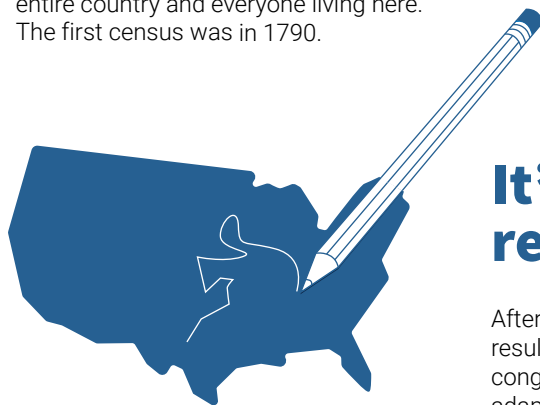
Every 10 years, the results of the census are used to reapportion the House of Representatives, determining how many seats each state gets.



## It means \$675 billion.



Census data determine how more than \$675 billion are spent, supporting your state, county and community's vital programs.

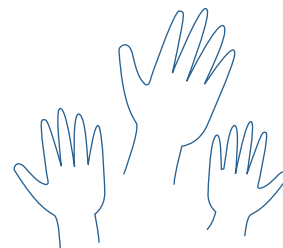


## It's about redistricting.

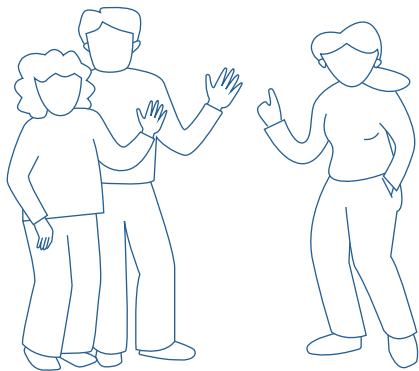
After each census, state officials use the results to redraw the boundaries of their congressional and state legislative districts, adapting to population shifts.

## Taking part is your civic duty.

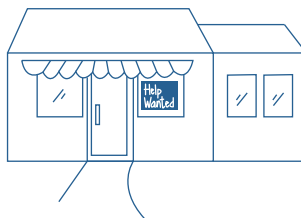
Completing the census is required: it's a way to participate in our democracy and say "I COUNT!"



## Census data are being used all around you.

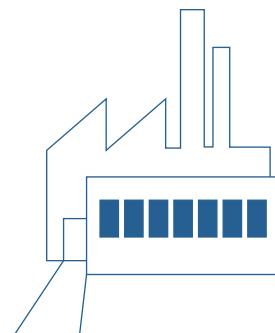
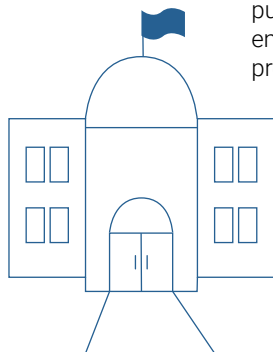


Residents use the census to support community initiatives involving legislation, quality-of-life and consumer advocacy.



Businesses use census data to decide where to build factories, offices and stores, which create jobs.

Local governments use the census for public safety and emergency preparedness.



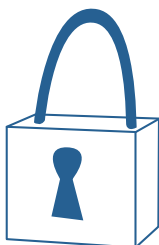
Real estate developers use the census to build new homes and revitalize old neighborhoods.



## Your data are confidential.

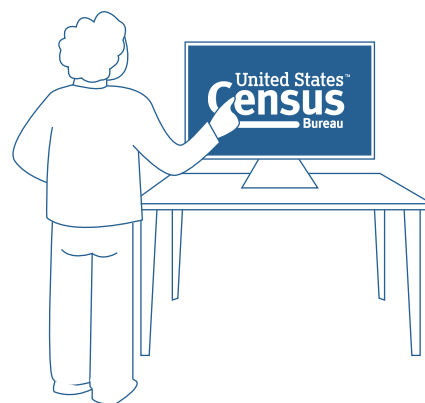
Federal law protects your census responses. Your answers can only be used to produce statistics.

By law we cannot share your information with immigration enforcement agencies, law enforcement agencies, or allow it to be used to determine your eligibility for government benefits.



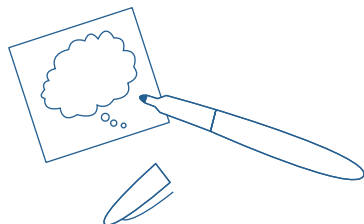
## 2020 will be easier than ever.

In 2020, you will be able to respond to the census online.



## You can help.

You are the expert—we need your ideas on the best way to make sure everyone in your community gets counted.



United States<sup>™</sup>  
**Census**  
Bureau

U.S. Department of Commerce  
Economics and Statistics Administration  
U.S. CENSUS BUREAU  
***census.gov***

FIND OUT HOW TO HELP AT  
**CENSUS.GOV/PARTNERS**

# Frequently Asked Questions

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## WHAT IS THE DECENNIAL CENSUS?

Every 10 years, the federal government conducts a population count of everyone in the United States. Data from the census provide the basis for distributing more than \$675 billion in federal funds annually to communities across the country to support vital programs—impacting housing, education, transportation, employment, health care, and public policy. They also are used to redraw the boundaries of congressional and state legislative districts and accurately determine the number of congressional seats each state has in the U.S. House of Representatives.

## WHY IS IT IMPORTANT TO ME?

Responding to the census is not only your civic duty; it also affects the amount of funding your community receives, how your community plans for the future, and your representation in government. Specifically, data from the 2020 Census are used to:

- Ensure public services and funding for schools, hospitals, and fire departments.
- Plan new homes and businesses and improve neighborhoods.
- Determine how many seats your state is allocated in the House of Representatives.

## WHEN WILL I COMPLETE THE CENSUS?

The next census will take place in 2020. Beginning in mid-March, people will receive a notice in the mail to complete the 2020 Census. Once you receive it, you can respond online. In May, the U.S. Census Bureau will begin following up in person with households that haven't responded to the census.

## HOW CAN I RESPOND?

In 2020, for the first time ever, the Census Bureau will accept responses online and by phone. Responding should take less time than it takes to finish your morning coffee. You can still respond by mail.

## WHAT INFORMATION WILL BE REQUESTED?

The decennial census will collect basic information about the people living in your household. When completing the census, you should count everyone who is living in your household on April 1, 2020.

## WHAT INFORMATION WILL NOT BE REQUESTED?

The Census Bureau will **never** ask for:

- Social Security numbers.
- Bank or credit card account numbers.
- Money or donations.
- Anything on behalf of a political party.

## WILL MY INFORMATION BE KEPT CONFIDENTIAL?

Strict federal law protects your census responses. It is against the law for any Census Bureau employee to disclose or publish any census information that identifies an individual. Census Bureau employees take a lifelong pledge of confidentiality to handle data responsibly and keep respondents' information private. The penalty for wrongful disclosure is a fine of up to \$250,000 or imprisonment for up to 5 years, or both. No law enforcement agency (not the DHS, ICE, FBI, or CIA) can access or use your personal information at any time. Data collected can only be used for statistical purposes that help inform important decisions, including how much federal funding your community receives.

The Census Bureau has a robust cybersecurity program that incorporates industry best practices and federal security standards for encrypting data.

## WHERE CAN I GO TO LEARN MORE?

You can learn more about the 2020 Census by visiting [2020census.gov](https://2020census.gov).

# The 2020 Census Operational Overview

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Count everyone once,  
only once, and in the right place.



## ESTABLISH WHERE TO COUNT

Identify all addresses  
where people could live.

Conduct a 100-percent review  
and update of the nation's  
address list.

Minimize in-field work  
with in-office updating.

Use multiple data sources  
to identify areas with  
address changes.

Get local government input.



## MOTIVATE PEOPLE TO RESPOND

Conduct a nationwide  
communications and  
partnership campaign.

Work with trusted sources  
to increase participation.

Maximize outreach using  
traditional and new media.

Target advertisements to  
specific audiences.



## COUNT THE POPULATION

Collect data from all  
households, including  
group and unique living  
arrangements.

Make it easy for people to  
respond anytime, anywhere.

Encourage people to use the  
online response option.

Use the most cost-effective  
strategy to contact and  
count nonrespondents.

Streamline in-field  
census taking.

Knock on doors only  
when necessary.



## RELEASE CENSUS RESULTS

Process and provide Census data.

Deliver apportionment counts  
to the President by  
December 31, 2020.

Release counts for  
redistricting by April 1, 2021.

Make it easier for the public  
to get information.

# United States Census 2020



## 2020 CENSUS BRIEFING

City of Huber Heights, OH  
Montgomery County

Janice Holland-Atwater Partnership Specialist  
Montgomery, Greene and Clark Counties  
U.S. Census Bureau  
Philadelphia Region



# 2020 Census: April 1, 2020

- Every 10 years, since 1790, the federal government conducts a population count of everyone in the United States. This data effects distribution of more than **\$675 billion** in federal funds annually to communities that impact:



- **Housing**
- **Education**
- **Transportation**
- **Employment**
- **Health Care**
- **Public Policy**

# 2020 Census: April 1, 2020

Census data is also used to :

- Redraw boundaries of congressional and state legislative districts and
- Determine the number of congressional seats each state has in the U.S. House of Representatives





# 2020 Census: Mission, Plan, Goal

**MISSION:** To be the nation's leading provider of quality data about its people and economy

**PLAN:** To conduct a high-quality 2020 Census that fulfills our...

**GOAL:** To count everyone...

**ONCE, ONLY ONCE, and in the RIGHT PLACE.**

# 2020 Census: Why Count Everyone?



**Every resident**  
**NOT COUNTED**  
**in 2020**  
**potentially**  
**costs OHIO**

**\$Thousand\$/year**  
**for the next 10 years**

# 2020 Census: **EASY**—Safe—Important

## **ONLINE:** FIRST TIME EVER!

online option in numerous languages  
*10 questions/10 minutes*  
*secure, accessible anytime/anywhere*

**PHONE:** *toll-free; support in 12 languages*

**MAIL:** short form  
*mailed ONLY to non-respondents*





# 2020 Census: Easy—**SAFE**—Important

- ✓ **Title 13 of the U.S. Code**  
*authorizes data collection;  
restricts data to statistical use ONLY*
- ✓ **Raw data encrypted/aggregated before release**  
*cannot be used against anyone by any agency/court;  
cannot be released for 72 years*
- ✓ **All census workers must pass background check/  
take oath of confidentiality for life**  
*penalty: 5 years in prison, \$250,000 fine*



# 2020 Census: Easy—Safe—**IMPORTANT**



Meet U.S.  
Constitutional  
Mandate  
Article 1, Section 2



Apportion  
seats in  
U.S. House of  
Representatives



Conduct  
redistricting at  
federal, state  
and local  
levels



Help  
communities  
plan for  
future needs



Provide  
statistical  
support for  
grant  
applications



Determine  
distribution of  
**\$675 billion**  
federal dollars  
to the states

# Hard-to-Count Groups



- ✓ **Natural Disaster victims**
- ✓ **Renters**
- ✓ **Non-English Speakers**  
*or limited English proficiency*
- ✓ **Low-income/Low education**
- ✓ **Living in rural or isolated areas**
- ✓ **Children 0-5 years**



# Natural Disaster Residence Guidance

- People temporarily displaced by natural disasters are to be counted at their usual residence to which they intend to return.
- People in temporary group living quarters, established for victims of natural disasters, will be counted where they live and sleep most of the **time** (or at the facility, if they do not report a usual home elsewhere).



# 2020 Census Timeline

**In-field address canvassing**

*August-October 2019*

**Group Quarters**

*February-July 2020*

**Internet Self-Response**

*March-July 2020*

**CENSUS DAY**

*April 1, 2020*

**Update Leave**

*March-April 2020*

**Non-Response Follow-Up**

*April-July 2020*



U.S. Department of Commerce  
Economics and Statistics Administration  
U.S. CENSUS BUREAU  
[census.gov](https://www.census.gov)





# How does your city get started in obtaining a complete and accurate count for the 2020 Census?

# SOLUTION:

## Form A **Complete Count Committee (CCC)** for your city



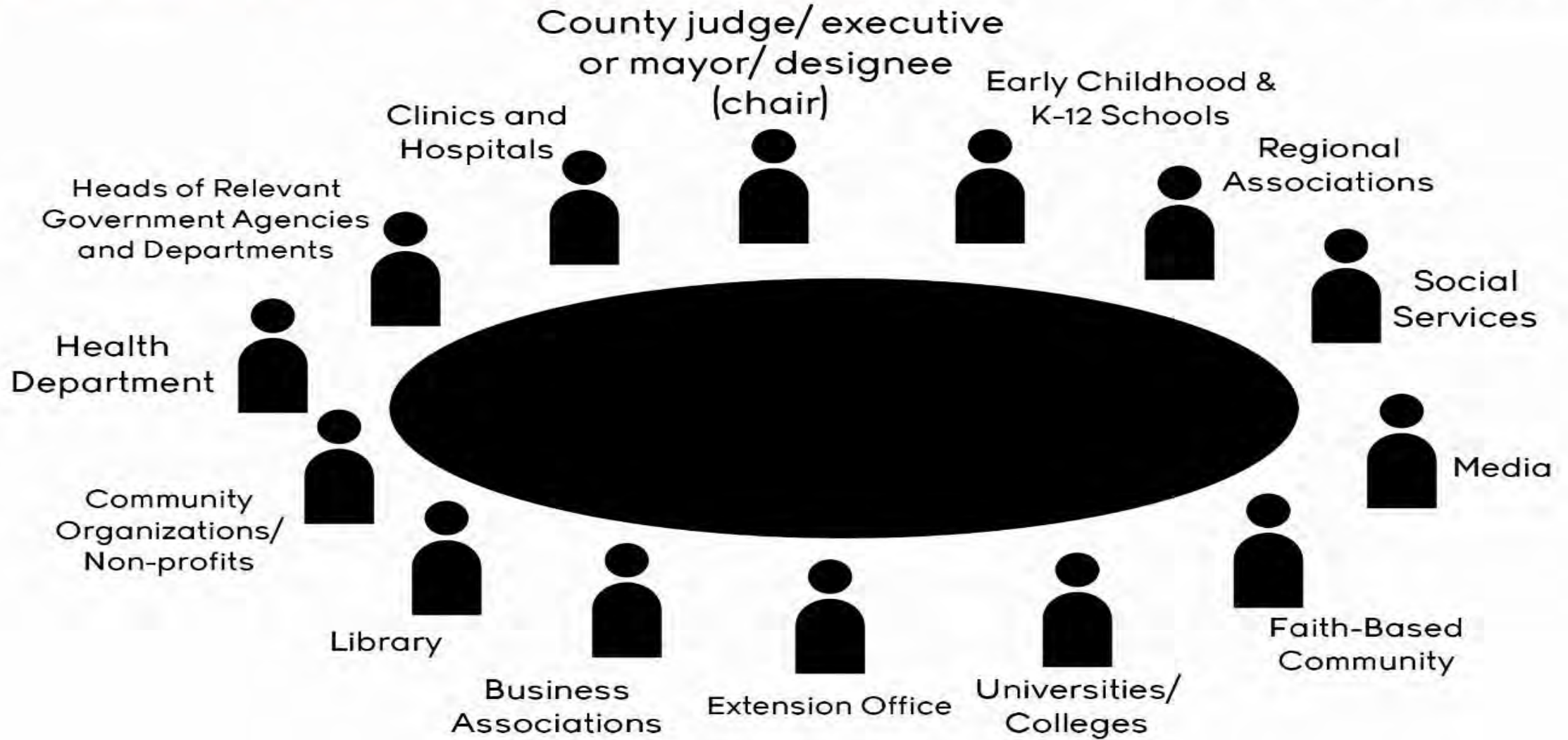
**What:** A committee of local government & community leaders that creates 2020 Census awareness

**Goal:** To develop & implement local Census campaigns

**How:** Implement plans to encourage response to the 2020 Census for a successful census count

# COMPLETE COUNT COMMITTEES

\*\*Partnership Specialist is advisor and Census liason to CCCs





# What's Next?

- ✓ Issue a **Proclamation** supporting 2020 Census & formation of a CCC
- ✓ Form a CCC and designate a CCC leader
- ✓ Invite key individuals and groups to participate
- ✓ Display 2020 Census info everywhere
- ✓ Identify local hard-to-count populations
- ✓ Develop strategies to increase awareness & encourage participation

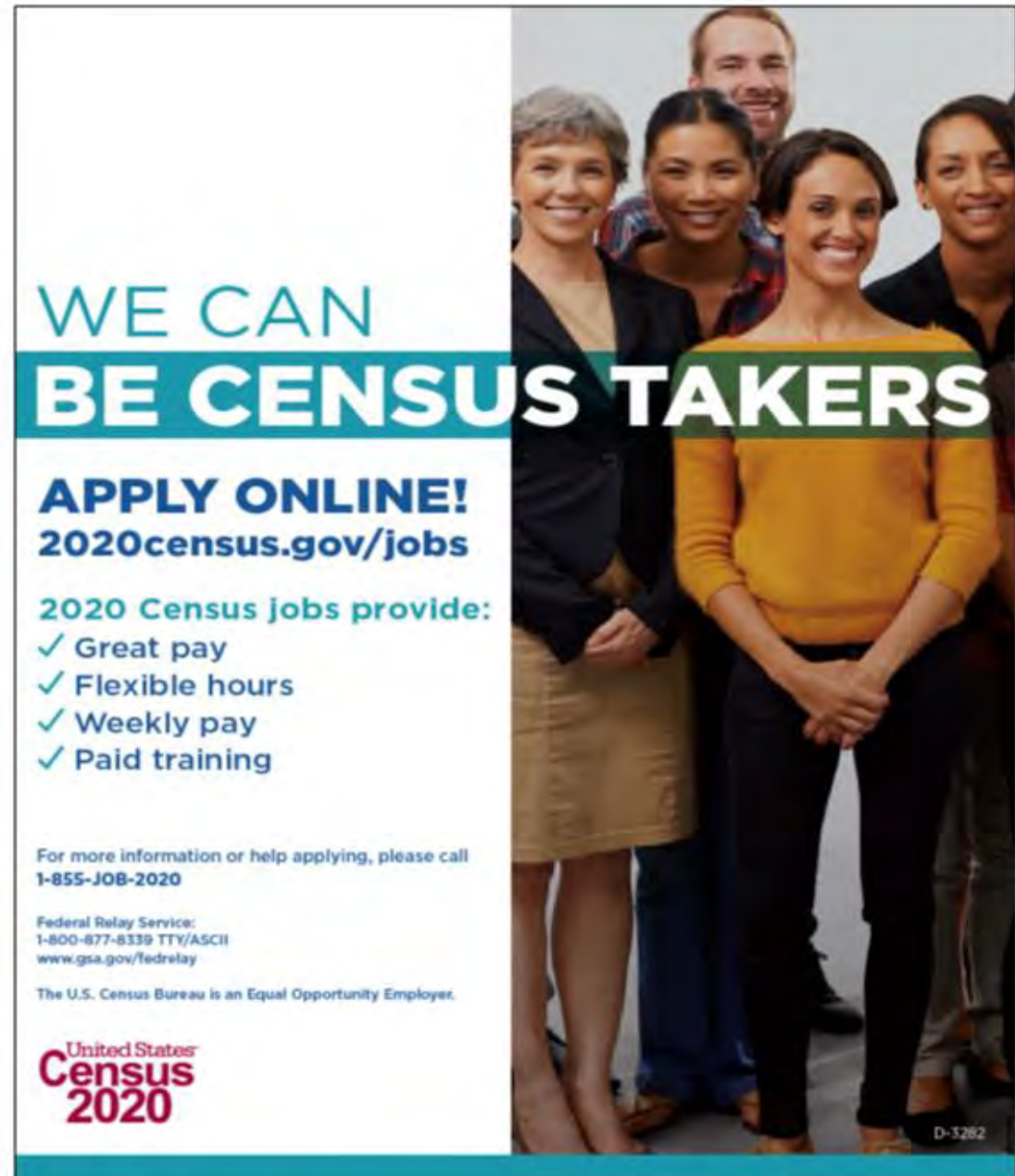


# How **We** Can Help

- ✓ Offer well-paying jobs to the local community
- ✓ Provide informational & promotional materials
- ✓ Serve as liaisons and advisors to CCC's
- ✓ Provide census.gov statistical tools support
- ✓ Promote the census with nationwide PSAs & ads



U.S. Department of Commerce  
Economics and Statistics Administration  
U.S. CENSUS BUREAU  
[census.gov](https://www.census.gov)

A vertical advertisement for 2020 Census jobs. It features a group of diverse people smiling on the right side. The text on the left includes the headline "WE CAN BE CENSUS TAKERS" in large blue and white letters. Below this, it says "APPLY ONLINE!" followed by the URL "2020census.gov/jobs". A section titled "2020 Census jobs provide:" lists four benefits: "Great pay", "Flexible hours", "Weekly pay", and "Paid training", each preceded by a green checkmark. At the bottom, it provides contact information for more information or help applying, including a phone number and a federal relay service. The U.S. Census Bureau logo and the text "The U.S. Census Bureau is an Equal Opportunity Employer." are also present. A small ID number "D-3262" is visible in the bottom right corner of the image area.

**WE CAN  
BE CENSUS TAKERS**

**APPLY ONLINE!**  
[2020census.gov/jobs](https://2020census.gov/jobs)

**2020 Census jobs provide:**

- ✓ Great pay
- ✓ Flexible hours
- ✓ Weekly pay
- ✓ Paid training

For more information or help applying, please call  
**1-855-JOB-2020**

Federal Relay Service:  
1-800-877-8339 TTY/ASCII  
[www.gsa.gov/fedrelay](https://www.gsa.gov/fedrelay)

The U.S. Census Bureau is an Equal Opportunity Employer.

United States  
**Census  
2020**

D-3262

**APPLY ONLINE!** [www.2020census.gov/jobs](https://www.2020census.gov/jobs)



# Connect with the Census Bureau



More information on the 2020 Census:  
<http://www.census.gov/2020Census>



[facebook.com/uscensusbureau](https://facebook.com/uscensusbureau)



Identify low response areas in your community:  
<http://www.census.gov/ROAM>



[twitter.com/uscensusbureau](https://twitter.com/uscensusbureau)



Questions or to learn more about the Partnership Program and CCCs:  
[Janice.C.Atwater@2020census.gov](mailto:Janice.C.Atwater@2020census.gov)



[youtube.com/user/uscensusbureau](https://youtube.com/user/uscensusbureau)



[instagram.com/uscensusbureau](https://instagram.com/uscensusbureau)



[pinterest.com/uscensusbureau](https://pinterest.com/uscensusbureau)

# Thank you!

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2019-R-

CREATING THE 2020 COMPLETE COUNT CENSUS COMMITTEE TO PLAN AND CONDUCT LOCAL EDUCATIONAL INITIATIVES, PUBLICITY AND PROMOTIONAL ACTIVITIES TO INCREASE COMMUNITY AWARENESS AND PARTICIPATION IN THE 2020 CENSUS.

WHEREAS, the United States of America has performed a nationwide census every ten years since 1790, with the last Census being in 2010; and

WHEREAS, an accurate census is essential for the allocation of representatives to serve in the legislative bodies of the U.S. House of Representatives, the Ohio State Legislature, and within the City of Huber Heights and Montgomery County voting districts; and

WHEREAS, accurate age, population and other ethnic and demographic information gathered every ten years within the census information is critical for the correct apportionment of certain federal funds for health, education, transportation, child and elder care, emergency preparation and response; and

WHEREAS, accurate census information is critical to planning for future growth, development, and the social needs of the community; and

WHEREAS, the more informed that residents become about the 2020 Census operations, the better their understanding of the census process becomes, thus increasing their willingness to participate in the 2020 Census; and

WHEREAS, the Census Bureau is not permitted to publicly release responses furnished by any individual, or on behalf of an individual, or release information to other governmental agencies, including the Internal Revenue Service, the Immigration and Naturalization Service, law enforcement agencies or welfare agencies. In addition, per the Federal Cybersecurity Enhancement Act of 2015, census data is protected from cybersecurity risks through screening of the systems that transmit this data; and

WHEREAS, the purpose of the Complete Count Committee will be to advise and assist the City of Huber Heights in obtaining the most accurate and complete population count for the 2020 Census by increasing the number of responses through a focused, structured neighbor-to-neighbor program. The committee will also utilize the local knowledge, expertise and influence of each committee member to design and implement a census awareness campaign targeted to the Huber Heights community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The Huber Heights 2020 Complete Count Census Committee is hereby established, hereinafter referred to as the "Complete Count Committee" or "Committee", to advise and assist the City of Huber Heights in obtaining the most accurate and complete population count for the 2020 Census.

Section 2. The Committee shall be a working committee charged with the responsibility to discuss and formulate strategies and techniques to enhance and increase the response rate to the 2020 Census. Activities may include, but are not limited to:

- A. Working with City Staff and the Census Bureau to plan and facilitate activities and resources.
- B. Planning and conducting local educational initiatives such as speaking at public forums, meetings and organizations.
- C. Preparing or obtaining posters, flyers and handouts for use by the media and others.
- D. Preparing or obtaining materials for public service announcements for print, radio, television, and social media.



Section 3. The Committee shall consist of at least five (5) and no more than seven (7) members including a chairperson, each appointed by the Mayor including representation from the following groups:

- A. Education
- B. Minority Groups
- C. Religious Groups
- D. Media
- E. Community Organizations
- F. No more than two (2) appointed members of City Staff

Section 4. The Committee members shall serve from the time of appointment through and including June, 2020 at which time the Committee, having completed its work, shall dissolve, unless extended by the City Council of Huber Heights. No resolution dissolving or rescinding the committee is necessary.

Section 5. The Committee shall meet at least every three months (quarterly), but may meet more often as needed

Section 6. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 7. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-6516**

**City Council Meeting**

**New Business     D.  
Finance**

**Meeting Date:** 08/26/2019

2019 Supplemental Appropriations

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 08/20/2019

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

An Ordinance Authorizing Transfers Between Various Funds Of The City Of Huber Heights, Ohio And Amending Ordinance No. 2018-O-2357 By Making Supplemental Appropriations For Expenses Of The City Of Huber Heights, Ohio For The Period Beginning January 1, 2019 And Ending December 31, 2019. (first reading)

**Purpose and Background**

The supplemental appropriations are for the following purposes:

- \$100,218 transfer from State Highway Maintenance Fund to Capital Improvements Fund for Mast Arm traffic signal installation at the corner of Brandt and Chambersburg.

---

**Fiscal Impact**

**Source of Funds:** Capital Improvement Fund

**Cost:** \$100,218

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** Yes

**Financial Implications:**

---

**Attachments**

Ordinance

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CITY OF HUBER HEIGHTS  
STATE OF OHIO  
  
ORDINANCE NO. 2019-O-

AUTHORIZING TRANSFERS BETWEEN VARIOUS FUNDS OF THE CITY OF HUBER HEIGHTS, OHIO AND AMENDING ORDINANCE NO. 2018-O-2357 BY MAKING SUPPLEMENTAL APPROPRIATIONS FOR EXPENSES OF THE CITY OF HUBER HEIGHTS, OHIO FOR THE PERIOD BEGINNING JANUARY 1, 2019 AND ENDING DECEMBER 31, 2019.

WHEREAS, supplemental appropriations for expenses of the City of Huber Heights must be made to reflect transfers and for appropriations of funds for various 2019 operating and project funding.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. Authorization is hereby given to transfer certain monies up to amounts not exceeding those shown and for the purposes cited in Exhibit A, and such authorization applies to any and all such advances and transfers necessary and effected after January 1, 2019.

Section 2. Ordinance No. 2018-O-2357 is hereby amended as shown in Exhibit B of this Ordinance.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXHIBIT A

<i><b>Transfer:</b></i>			
<u>Amount</u>	<u>Fund From</u>	<u>Fund To</u>	<u>Purpose</u>
\$100,218.00	214 State Highway	406 Capital Improvements	Mast arms at Brandt/Chambersburg

**EXHIBIT B**

AMENDING ORDINANCE NO. 2018-O-2357 BY MAKING APPROPRIATIONS FOR EXPENSES OF THE CITY OF HUBER HEIGHTS, OHIO FOR THE PERIOD BEGINNING JANUARY 1, 2019 AND ENDING DECEMBER 31, 2019.

- 1) Section 9 of Ordinance No. 2018-O-2357 is hereby amended to reflect an increase in the appropriations of the #214 State Highway Maintenance Fund, Transfers of \$100,218.00.
- 2) Section 27 of Ordinance No. 2018-O-2357 is hereby amended to reflect an increase in the appropriations of the #406 Capital Improvements Fund, as follows:
  - a. Subsection c) Capital, Operations and Capital of \$100,218.00.

State Highway Maintenance Fund	\$100,218.00
Capital Improvements Fund	\$100,218.00

**AI-6517**

**City Council Meeting**

**New Business E.  
Finance**

**Meeting Date:** 08/26/2019

Investment Policy Update

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

**Council Committee Review?:** Council  
Work  
Session

**Date(s) of Committee Review:** 08/20/2019

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Resolution Establishing An Investment Policy For The City Of Huber Heights, Ohio.  
(first reading)

**Purpose and Background**

Each municipality in Ohio is required by Ohio Revised Code Chapter 135 to adopt an investment policy and file such policy in the office of the Auditor of State. It is the recommendation of City Staff to update the City of Huber Heights Investment Policy to reflect changes to ORC Chapter 135 and allow for all permissible investment options authorized by the State of Ohio. Updating the City investment policy was one of the goals for the Finance Department in the 2018 Strategic Plan.

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** \$0.00

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

---

**Attachments**

Resolution

Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2019-R-

ESTABLISHING AN INVESTMENT POLICY FOR THE CITY OF HUBER HEIGHTS, OHIO.

WHEREAS, each municipality in Ohio is required by Ohio Revised Code Chapter 135 to adopt an investment policy and file such policy in the office of the Auditor of State; and

WHEREAS, an investment policy is adopted to ensure that public funds are invested in a manner which will provide the highest investment return with the maximum security, safety and preservation of principal while meeting the daily cash flow demands of the City; and

WHEREAS, the Director of Finance is the investment officer for the City of Huber Heights, Ohio, charged with the responsibility for the purchase and sale of investments and the carrying out of this Investment Policy as stated in Section 7.06 of the City Charter of Huber Heights, Ohio.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. That this Council hereby adopts the investment policy as set forth in Exhibit A.

Section 2. It is hereby 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 deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

### ***Governing Authority***

This document, in conjunction with the Ohio Revised Code (“ORC”), as amended, will govern the investments and the investment activities of the City of Huber Heights (“City”). It will be reviewed annually for compliance and to assure the flexibility necessary to effectively manage the investment portfolio.

### ***Purpose***

The purpose of the investment policy is to ensure that the City’s Investment objectives of Safety, Liquidity and Return are adhered to while conforming to all applicable statutes governing the investment of public funds by an Ohio Municipality.

### ***Scope***

This investment Policy applies to all financial assets of the City, including State and Federal funds held by it. Except for cash in certain restricted and special funds and at the discretion of the Director of Finance, the City of Huber Heights can consolidate cash balances from multiple funds to maximize investment earnings. The funds will be consolidated by all enterprise funds and all non-enterprise funds. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles. Any practice not clearly authorized under these policies or ORC Chapter 135 is prohibited. The guidance set forth herein is to be strictly followed by all those responsible for any aspect of the management or administration of these funds.

### ***Objectives***

The primary objectives, in order of priority, of the City’s investment activities shall be:

- 1) Safety: Safety of principal is the foremost objective of the investment program. City investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- 2) Liquidity: The portfolio should be managed in such a manner to assure funds are available to meet those immediate and or future obligations of the City.
- 3) Return: The portfolio shall be managed in such a fashion as to attain a market rate of return throughout budgetary and economic cycles, within the context and parameters set forth by objectives 1 and 2 above.



# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

### ***Prudence***

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income derived.

The standard of prudence to be used by the Director of Finance and others involved in the management of the investment portfolio shall be the “prudent person” standard and shall be applied in the context of managing the overall portfolio. Acting in accordance with this Investment Policy and exercising due diligence shall relieve the Director of Finance and others involved in the management of the portfolio from personal responsibility for an individual security’s credit risk or market price changes, provided deviations from the expectations are reported to the Council in a timely fashion and appropriate action is taken to control adverse developments.

### ***Service Providers, Safekeeping and Custody***

The City may engage the services of an investment advisor to assist in the management of the investment portfolio in a manner consistent with this investment policy. Such investment advisor may be granted discretion to purchase and sell investment securities in accordance with this investment policy. The investment advisor must be licensed by the division of securities under ORC Section 1707.141 or registered with the Securities and Exchange Commission, and possess experience in public funds investment management specifically in the area of state and local government investment portfolios, or the investment advisor is an eligible institution as mentioned in ORC Section 135.03. The investment advisor must enter into a written investment advisory agreement with the City. In addition, the investment advisor must supply a copy of their Form ADV Part 2, or make a copy available, on an annual basis.

Should the City choose not to engage the services of an investment advisor, then a list will be maintained of financial institutions and broker/dealers who provide investment services. All financial institutions and broker/dealers with which the City conducts business must supply proof of Financial Industry Regulatory Authority (“FINRA”) registration and State of Ohio registration, as appropriate. The Director of Finance is responsible for evaluating and reviewing on an annual basis the regulatory status of such financial institutions and broker/dealers.

The City will also arrange to have any investment securities held in safekeeping by an independent third-party custodian. Any advisor or broker/dealer doing business with the City cannot serve as a custodian or safekeeping agent. Investment securities should be settled to the custody account on a delivery-versus-payment (DVP) basis, as previously noted. The custodian must enter into a written custodial agreement with the City.

In accordance with ORC, a copy of this policy will be forwarded to each investment advisor, financial institution and broker/dealer doing investment business with the City. Their signature will be required indicating that they have received, read, comprehend and will abide

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

by its contents when managing assets or recommending or selling any investment security to the City. Any third-party custodian providing services is excluded from this requirement as long as they will not be managing assets, recommending, or selling any investment security to the City.

### ***Authorized Investments***

The City is permitted to invest in any security authorized by ORC Chapter 135 and any other relevant sections, as amended. Those securities include, but are not limited to, the following:

1. Bonds, notes, or other obligations of or guaranteed by the United States, or those for which the faith of the United States is pledged for the payment of the principal and interest thereon.
2. Bonds, notes, debentures, or any obligations or securities issued by any federal government agency or instrumentality. All federal government agency or instrumentality securities must be direct issuances of the federal government agency or instrumentality.
3. Interim deposits in the eligible institutions applying for interim monies as provided in ORC Section 135.08. The award of interim deposits shall be made in accordance with ORC Section 135.09.

This includes investments in Certificates of Deposit with FDIC insurance coverage on the full amount of deposit plus accrued interest administered through the Certificate of Deposit Account Registry Service (CDARS). Eligibility of this investment is outlined in ORC Section 135.144 and would also apply to any other program that is deemed to meet the requirements of such statute.

All deposits shall be collateralized or FDIC insured pursuant to ORC.

4. Bonds and other obligations of the State or its political subdivisions provided that, with respect to bonds or other obligations of political subdivisions, all of the following apply:
  - a) The bonds or other obligations are payable from general revenues of the political subdivision and backed by the full faith and credit of the political subdivision.
  - b) The bonds or other obligations are rated at the time of purchase in the three highest classifications established by at least one nationally recognized standard rating service and purchased through a registered securities broker or dealer.
  - c) The aggregate value of the bonds or other obligations does not exceed 20% of the City's interim funds at the time of purchase.

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

- d) The City is not the sole purchaser of the bonds or other obligations at original issuance.

No investment shall be made under this section unless the Director of Finance has completed the necessary training as approved by the Treasurer of State of Ohio.

5. Up to 40% of interim funds at time of purchase in either of the following:

- a) Commercial Paper notes issued by an entity that is defined in ORC Section 1705.01 division (D) and that has assets exceeding five hundred million dollars, to which notes all of the following apply:
  - i. The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.
  - ii. The aggregate value of the notes does not exceed ten percent of the aggregate value of the outstanding commercial paper of the issuing corporation.
  - iii. The notes mature no later than 270 days after purchase.
  - iv. The investment in commercial paper notes of a single issuer shall not exceed 5% of the City's interim funds at time of purchase.
- b) Bankers Acceptances of banks that are insured by the Federal Deposit Insurance Corporation and the obligations mature no later than 180 days after purchase.

No investment shall be made under this section unless the Director of Finance has completed the necessary training as approved by the Treasurer of State of Ohio.

- 6. No-load money market mutual funds consisting exclusively of securities described in paragraphs 1 and 2 of this Section and repurchase agreements secured by such obligations, provided that the investments in securities described in the division are made only through eligible institutions mentioned in ORC Section 135.03.
- 7. Written repurchase agreements that set forth terms and conditions of the agreement between the parties for a period of not to exceed 30 days with any eligible institution mentioned in ORC Section 135.03 or a member of FINRA, under the terms of which agreement, the Director of Finance purchases and such institution agrees unconditionally to repurchase any securities listed in division 1 or 2 of this section that will mature or are redeemable within five years of the date of purchase. The market value of the securities subject to the repurchase agreement must exceed the principal value of the agreement by at least two percent and be marked to market daily. Such agreement shall include the face

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

amount of the securities, type, rate, maturity date and the numerical identifier.

8. The Ohio Subdivision's Fund (STAR Ohio) and the STAR Plus Federally Insured Cash Account.

### ***Maximum Maturities***

The maximum maturity for any investment including certificates of deposit will be five (5) years from the date of purchase unless, as per ORC, the investment is matched to a longer term liability of the City. Investments shall be made with the reasonable expectation they can be held to maturity. Securities may be redeemed or sold prior to maturity to meet additional liquidity needs, to enhance the yield of the portfolio, to re-structure the portfolio or to realize any capital gains.

### ***Prohibited Investment Practices***

The City is prohibited by state law from investment in stripped principal or interest obligations, reverse repurchase agreements and derivatives. The issuance of taxable notes for the purpose of arbitrage, as well as the use of leverage and short-term selling is also prohibited.

Any investment currently held in the portfolio that does not meet the guidelines of this policy shall be exempt from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

### ***Ethics and Conflict of Interest***

Persons involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment consultants shall disclose to the City any material financial interests in financial institutions that conduct business within the City and any material personal financial or investment positions that could be related to, or affected by, the performance of the City's portfolio. All employees, officers and investment consultants to the City shall subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchases and sales.

### ***Internal Controls***

The Director of Finance shall develop and maintain procedures for the operation of the City's investment program in accordance with this Investment Policy. These procedures shall be designed to prevent loss of the City's funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions. The Director of Finance shall routinely monitor the contents of the City's investment portfolio and the available markets. A detailed inventory of all investments which shall include a description of each security, cost, par value, rate of return, along with the settlement and maturity dates, shall be available upon request.

The Director of Finance shall participate in any beginning and/or continuing education

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

training programs sponsored by the State Treasurer or the State Auditor. Through participation in those programs, the Director of Finance will develop and maintain an enhanced background and working knowledge in investment, cash management, and ethics.

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

### ***Investment Policy Adoption***

This Investment Policy adopted on \_\_\_\_\_ shall be filed in the office of the Auditor of State. The policy shall be reviewed on a periodic basis by the Council or a committee designated by it and any modifications made thereto must be approved by the Council and, upon adoption, filed in the office of the Auditor of State.

# **CITY OF HUBER HEIGHTS**

## **EXHIBIT A - INVESTMENT POLICY**

### **CERTIFICATION OF UNDERSTANDING AND ACCEPTANCE.**

I, the undersigned acknowledge that I am authorized to sign this policy on behalf of my employer and have received and read this investment policy established by the City of Huber Heights and will abide by the guidelines set forth.

Firm/Company: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AI-6518**

**City Council Meeting**

**New Business F.  
Engineering**

**Meeting Date:** 08/26/2019

Right Of Way Permits - City Code Amendment

**Submitted By:** Stephanie Wunderlich

**Department:** Engineering **Division:** Engineering

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 08/05/2019 and 08/20/2019

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

An Ordinance Amending Part Nine - Streets And Public Services Code; Title One - Street And Sidewalk Areas; Chapter 903 - Construction And Improvements In Public Right Of Way; Section 903.02 - Permit Required For Excavation Or Construction Of The Huber Heights City Code.  
(first reading)

**Purpose and Background**

This legislation is to adopt a proposed revision to Section 903.02 of the Huber Heights City Code requiring a penalty (fine) to anyone who does not get a right of way permit before starting or doing work within the City's dedicated right of way. Revisions have been made to the legislation since the last Council Work Session concerning the penalty amount and the action that is taken when a permit is not obtained.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Ordinance

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2019-O-

AMENDING PART NINE - STREETS AND PUBLIC SERVICES CODE; TITLE ONE - STREET AND SIDEWALK AREAS; CHAPTER 903 - CONSTRUCTION AND IMPROVEMENTS IN PUBLIC RIGHT OF WAY; SECTION 903.02 - PERMIT REQUIRED FOR EXCAVATION OR CONSTRUCTION OF THE HUBER HEIGHTS CITY CODE.

WHEREAS, a permit for excavation or construction in the City right of way is required by Section 903.02 of the Huber Heights City Code; and

WHEREAS, from time to time excavation or construction in the City right of way is undertaken by persons without first obtaining a permit; and

WHEREAS, much of the City's right of way contains above ground and underground facilities, both public and private including but not limited to sanitary and storm sewer lines, water mains, gas line, fiber optics, electrical lines, telephone lines, and cable lines (collectively and individually "facilities"); and

WHEREAS, excavation or construction in the City right of way can result, and in the past has resulted, in costly damage to facilities in the right of way, as well as adversely affecting adjacent business operations and residential service by those served by such facilities; and

WHEREAS, when such damage is done by a person without a permit, City staff is required to conduct additional inspections and/or incur additional time and expenses that could be avoided by complying with Section 903.02; and

WHEREAS, a permit is not obtained under 903.02 the City has no chance to inspect the work to assure it is done to City specifications thereby resulting in the tearing out and re doing of such work at additional costs to the resident, business and City; and

WHEREAS, enforcement of Section 903.02 is limited to timely and costly criminal prosecution that provides minimal penalties; and

WHEREAS, the City has determined that it is in the best interest of citizens of Huber Heights to provide certain civil penalties for a violation of Section 903.02; and

WHEREAS, in the case of State ex rel. Ohio Atty. Gen. v. Shelly Holding Co., 191 Ohio App.3d 421, the Court noted: "In order to be an effective deterrent to violations, civil penalties should be large enough to hurt the offender but not cause bankruptcy."; and

WHEREAS, under the law a court may consider, among other things, the following factors in assessing a civil penalty: the perpetrator's defiance, or indifference to the law; the financial gain that accrued; the environmental harm that resulted; and the extraordinary costs incurred in enforcement of the law;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. Huber Heights City Code Section 903.02 is hereby amended by the addition of a financial penalty such that the section as amended will read:

903.02 - Permit required for excavation or construction.

(a) No person, firm, corporation or political subdivision, whether an abutting owner or tenant or otherwise, shall do or permit to be done by its agents, contractors or employees, without first having obtained a permit from the City Engineer or his duly authorized representative to do any of the following acts:

(1) Make any excavations in any public right-of-way, street, sidewalk space, alley, lane or other public way or place;

(2) Remove, break or make holes in any pavement of the streets, alleys, driveway aprons, sidewalk spaces or other public ways or places, or cut any curb;

(3) Construct, build, erect or place any article or structure in or upon, over or under a street, driveway apron, sidewalk, alley, lane, sidewalk space, public right-of-way or place;

(4) Make any improvement or change in the surface of any street, alley, lane, sidewalk or sidewalk space, or any other public right-of-way or place by grading, placing base stone paving or laying sidewalks or curbing, or place or paint any sign or advertising matter on the surface of any such place;

(5) Construct, build or maintain any driveway apron over or through any gutter, curb, tree lawn or sidewalk.

(b) Except in the case of an emergency as provided in 903.07 of this Chapter, any person, firm, corporation or political subdivision that does or permits to be done any of the items (a)(1)-(5) listed above, without a valid permit from the City Engineer or his duly authorized representative shall:

(1) pay for and obtain a permit for such work and otherwise comply with the provisions of this Chapter 903; and

(2) be assessed by the City Engineer a civil penalty of not more than one thousand dollars for the first such violation.

The appropriateness and amount of the civil penalty shall be based upon the perpetrator's defiance or indifference to the law; any environmental harm that resulted; the costs incurred in enforcement of this section. For the second offense occurring not sooner than 20 days and not later than two years after the first offense, in addition to obtaining a permit as stated in section (b)(1), a civil penalty of \$1,500.00, shall be assessed no portion of which may be suspended. For a third offense and each subsequent offense occurring not sooner than 20 days after the second offense and not later than two years after the first offense, in addition to obtaining a permit as stated in section (b)(1), a civil penalty of \$2,500.00, shall be assessed for each such violation, no portion of which may be suspended.

(c) Except in the case of an emergency as provided in 903.07 of this Chapter, any person, firm, corporation or political subdivision that does or permits to be done any of the items (a)(1)-(5) listed above, without a valid permit from the City Engineer or his duly authorized representative may require the removal of any work that normally would have required inspection prior to installation.

(d) In addition to the civil penalty, if excavation or construction in the City right of way is undertaken without a permit as provided in this section, the City Engineer may issue a stop work order until such time as a permit is obtained and any prior work has been inspected as for conformance with the standard plans and specifications established by the City Engineer. Prior to vacating the work site under this provision, the contractor(s) subject to such stop work order shall be responsible for securing the work site in manner which protects the public's health, safety, and well-being as determined by the City Engineer.

(e) Nothing herein shall limit the City's ability to proceed with criminal prosecution and seek the penalties under section 903.99 or prevent or otherwise limit any other remedies available to the City under this Chapter or otherwise.

(f) Any party aggrieved by the penalty imposed herein may file a written appeal to the City Manager within ten (10) days of the date of the imposition of the Civil Penalty under the same process as set forth in section 920.07 of the Huber Heights Code.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-6519**

**City Council Meeting**

**New Business    G.  
Engineering**

**Meeting Date:** 08/26/2019

Brandt Pike/Chambersburg Road Mast Arm Installation - Award Contract

**Submitted By:** Hanane Eisentraut

**Department:** Engineering **Division:** Engineering

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 08/20/2019

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Resolution To Increase The Not To Exceed Amount And Authorize The City Manager To Enter Into A Contract For The Brandt Pike And Chambersburg Road Mast Arm Installation Project.  
(first reading)

**Purpose and Background**

This legislation will authorize the City Manager to enter into a contract with Bansal Construction, Inc. for the installation of mast arm traffic signal at the Brandt Pike and Chambersburg Road intersection at a cost not to exceed \$475,000.

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**Fiscal Impact**

**Source of Funds:** Capital Fund

**Cost:** \$475,000

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** Yes

**Financial Implications:**

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**Attachments**

Bid Results

Resolution

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**CITY OF HUBER HEIGHTS**  
**CHAMBERSBURG & BRANDT MAST ARM INSTALLATION**  
**BID RESULT**  
**BID DATE: AUGUST 2, 2019**

CONTRACTOR'S NAME	BID AMOUNT
Capital Electric	\$ 446,569.57 310 Calendar Days
	Bid Bond - Yes
Bansal	\$ 421,914.46 180 Calendar Days
	Bid Bond - Yes

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2019-R-

TO INCREASE THE NOT TO EXCEED AMOUNT AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE BRANDT PIKE AND CHAMBERSBURG ROAD MAST ARM INSTALLATION PROJECT.

WHEREAS, City Council authorized the receipt of bids for the Brandt Pike and Chambersburg Road Mast Arm Installation, which were received on August 2, 2019; and

WHEREAS, funds are available to cover the cost of this improvement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to award a contract to Bansal Construction, Inc. as the lowest and best bidder for the Brandt Pike and Chambersburg Road Mast Arm Installation Project at a cost not to exceed \$475,000.00.

Section 2. It is hereby 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 all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-6515**

**New Business H.**

**City Council Meeting**

**Public Works**

**Meeting Date:** 08/26/2019

Traffic Marking - State Route 235 - Solicit Bids/Award Contract

**Submitted By:** Linda Garrett

**Department:** Public Works **Division:** Public Works

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 08/20/2019

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Resolution Authorizing The City Manager To Solicit Bids And Award A Contract For Services Related To Traffic Marking Striping Of State Route 235.  
(first reading)

**Purpose and Background**

The Public Works Division requests authorization to solicit bids and award a contract for traffic marking services on State Route 235

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**Fiscal Impact**

**Source of Funds:** Public Works Division Budget

**Cost:** \$25,000

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** Yes

**Financial Implications:**

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**Attachments**

Resolution

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2019-R-

AUTHORIZING THE CITY MANAGER TO SOLICIT BIDS AND AWARD A CONTRACT FOR SERVICES RELATED TO TRAFFIC MARKING STRIPING OF STATE ROUTE 235.

WHEREAS, the City of Huber Heights recognizes its obligation of maintaining City property for efficient and safe operations; and

WHEREAS, a competitive bidding process would be utilized to obtain a reputable firm to provide services related to traffic marking striping of State Route 235; and

WHEREAS, the funds for the asphalt preservation at City-owned properties are available within the capital funds for FY 2019.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City is hereby authorized to solicit bids and award a contract for services related to the traffic marking striping of State Route 235.

Section 2. The amount of these contract services shall not exceed \$45,000.00 for the contract.

Section 3. It is hereby 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 deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date