



**CITY OF HUBER HEIGHTS**

**STATE OF OHIO**

**City Council Meeting**

**Regular Session**

**September 13, 2021**

**7:00 P.M.**

**City Hall - Council Chambers - 6131 Taylorsville Road**

1. **Call The Meeting To Order - Mayor Jeff Gore**
2. **Invocation - Father Kyle Schnippel Of Saint Peter Church At 6161 Chambersburg Road, Huber Heights, Ohio**
3. **Pledge Of Allegiance**
4. **Roll Call**
5. **Approval Of Minutes**
  - A. **City Council Meeting Minutes - August 23, 2021**
6. **Special Presentations/Announcements**
7. **Citizens Comments**
8. **Citizens Registered to Speak on Agenda Items**
9. **City Manager Report**
10. **Pending Business**

- A. An Ordinance To Amend The Codified Ordinances Of The City Of Huber Heights, Ohio To Provide Amendments To The Traffic Code Sections 335.021, 331.211, 335.09, And 335.04; And To The General Offenses Code Sections 525.13, 545.03, 545.09, 509.07, 541.051, 501.99, 513.01, 541.05, And 549.02; To Provide For Codification; To Provide For Severability; And To Repeal Conflicting Ordinances.  
(second reading)
- B. A Resolution Authorizing The City Manager To Enter Into Contracts For The Monita Field Skate Park And BMX Track Project.  
(second reading)

11. **New Business**

**CITY COUNCIL**

**Anthony Rodgers, Clerk of Council**

- A. A Motion To Direct The Clerk Of Council To Respond To The Ohio Division Of Liquor Control With No Objections In Reference To New Liquor Permit #58111440425 For Meijer Gas At 7266 Executive Boulevard, Huber Heights, Ohio 45424.
- B. A Motion To Direct The Clerk Of Council To Respond To The Ohio Division Of Liquor Control With No Objections In Reference To The Transfer Of Liquor Permit #3097970 For Marathon At 7851 Old Troy Pike, Huber Heights, Ohio 45424.

**ADMINISTRATION**

**Scott Falkowski, Interim City Manager**

- C. A Resolution Approving The Execution Of That Certain First Amendment To Redwood Development Agreement Between The City Of Huber Heights, Ohio ("City"), DEC Land Co. I LLC ("DEC"), And Redwood USA LLC ("Redwood") (The "Parties"); And Giving Certain Discretionary Control To The City Relative To The Extension Of CRA Rights To Certain Property Of The Parties.  
(first reading)
- D. A Resolution Adopting A Statement Indicating The Services The City Of Huber Heights, Ohio Will Provide To The Territory Proposed To Be Annexed To The City Of Huber Heights Pursuant To A Petition Filed With The Board Of Commissioners Of Miami County By Land Owners (As Defined Below), As Provided By Ohio Revised Code Section 709.023.  
(first reading)
- E. A Resolution Ratifying The Acceptance Of The Material Terms Of The OneOhio Subdivision Settlement Pursuant To The OneOhio Memorandum Of Understanding And Consistent With The Terms Of The July 21, 2021 National Opioid Settlement Agreement.  
(first reading)
- F. A Resolution Authorizing The City Manager To Execute A Purchase Agreement With TJL-CES, LLC.  
(first reading)

- G. A Resolution Amending Community Reinvestment Area #6 By Including Additional Properties Within Community Reinvestment Area #6.  
(first reading)
- H. A Resolution To Modify Community Reinvestment Area #7 By Removing Certain Properties From Community Reinvestment Area #7.  
(first reading)
- I. An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$1,740,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Certain Real Property Which Will Be Used As A Site For City Administrative Offices, And Providing For General Site Preparation Thereof And Improvements Thereto, Together With All Necessary Appurtenances Thereto, And Declaring An Emergency.  
(first reading)
- J. An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$1,803,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Certain Real Property Which Will Be Used As A Site For One Or More Governmental Facilities, And Providing For General Site Preparation Thereof And Improvements Thereto, Together With All Necessary Appurtenances Thereto, And Declaring An Emergency.  
(first reading)
- K. An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$4,262,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Approximately 19.5 Acres Of Real Property Near The Intersection Of Brandt Pike And Fishburg Road And Providing For The Site Preparation Thereof, All In Support Of Economic Development And Job Creation Within The City, And Declaring An Emergency.  
(first reading)
- L. 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)
- M. A Resolution Authorizing The City Manager To Enter Into A Contract Modification With The Kleingers Group For The Chambersburg Road Widening Improvements – Phase IV Project.  
(first reading)
- N. A Resolution Amending Resolution No. 2021-R-6980 To Increase The Not To Exceed Amount For A Portion Of The 2021 Sidewalk Program And The Concrete Portion Of The 2021 Street Program.  
(first reading)
- O. A Resolution Authorizing The City Manager To Enter Into A Contract For The Marian Meadows Demolition – Phase II Project.  
(first reading)

- P. A Resolution To Increase The Not To Exceed Maintenance Contract Amount And Authorize The City Manager To Enter Into A Contract Modification With Suez Water Environmental Services, Inc.  
(first reading)
- Q. A Resolution Authorizing The City Manager To Enter Into A Contract For Baseball Field Renovation At Thomas Cloud Park And Monita Field Park And Waiving The Competitive Bidding Requirements.  
(first reading)

12.       **City Official Reports and Comments**

13.       **Executive Session**

14.       **Adjournment**

AI-7798

Minutes A.

**City Council Meeting**

**Meeting Date:** 09/13/2021

Approval of Minutes - 8/23/21

**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 23, 2021

**Purpose and Background**

Approval of the minutes from the August 23, 2021 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  
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1. The Huber Heights City Council met in a Regular Session on August 23, 2021. Mayor Jeff Gore called the meeting to order at 7:00 p.m.
2. The Invocation was given by Pastor Randy Griffith of the Free Methodist Church at 6875 Old Troy Pike, Huber Heights, Ohio.
3. **Pledge of Allegiance**
4. **Roll Call**

Councilmembers present for this meeting were Richard Shaw, Kathleen Baker, Mark Campbell, Glenn Otto, Ed Lyons, Andy Hill, Don Webb, and Mayor Jeff Gore.

Mayor Gore said Mrs. Byrge had sent an email requesting her absence be excused. Mr. Campbell moved to excuse Mrs. Byrge's absence; Mr. Webb seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 7-0.

### 5. Approval of Minutes

- A. City Council Meeting Minutes – August 9, 2021

### 6. Special Presentations/Announcements

- A. Huber Heights Arts And Beautification Commission Yard Beautification Awards Presentation - Mayor Jeff Gore And The Huber Heights Arts And Beautification Commission

Mayor Gore joined Cindy Davidson, Chair of the Arts and Beautification Commission, to present the awards. The Best Business Award was presented to McDonald's at 5562 Merily Way; the Bee Friendly Award was presented to Gillian Vino at 7510 Sebring Drive, and the Mayor's Award was presented to David Rebele at 7604 Callamere Farms Drive.

- B. Mayoral Proclamations And Presentation To Competitors From Meng's Martial Arts - Mayor Jeff Gore

Mayor Gore read a proclamation for the members of Meng's Martial Arts who achieved gold medals in national and international competitions and the coach, Grand Master Benny Meng. The medal winners were Hawk Burns, Shea Scarborough, Giovanni Smith, Derikson Meng, Spencer Meng, Vincent Meng, Andrew Tate, and Daarynah Willoughby. Mayor Gore congratulated the competitors and thanked Mr. Meng for the thirty-four-year relationship with the City of Huber Heights.

- C. Prostate Cancer Awareness And Education Month Mayoral Proclamation Presentation – Mayor Jeff Gore

Mayor Gore read the Prostate Cancer Awareness and Education Month proclamation.

### 7. Citizens Comments

Mr. Vincent King said as Council continues to work to find a developer for Marian Meadows/Southpointe Crossing site and work with the library, he encouraged Council to listen to the residents, especially in Ward 4. He said what he would like to see in that area is a multi-use City municipal facility, and he sees that area as a potential location to consolidate City Staff. He also said the area is large enough to have City-wide events such as the Farmers Market. He encouraged Council to add bicycle lanes to the streets.

Mrs. Cindy Smith said all the homes that won beautification awards are brick. She again asked Council to consider legislation to define "masonry". She said Huber Heights has a national reputation for being the largest community of brick homes and

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it would be a shame to sully that reputation with builders using loopholes to build with cheaper materials. She said Section 9 of The Oaks will be a visual representation of the decline of City standards and a reminder of how developers and builders when left unchecked, can shape this City.

Mayor Gore said the City is awaiting information on this issue from the Law Director.

Mr. Otto said he is a member of the Ordinance Review Commission, and that is a topic that was recommended to come back to Council to review and to make decisions. He said he feels the City's standards have lowered over the years.

Don Webb said the masonry is more visual than composition. He said this issue was discussed at length by the Ordinance Review Commission, and the commission recommended getting the issue before the Planning Commission and back to Council.

Mayor Gore said one thing he would support is making sure the intent of Council becomes very clear in the language of the ordinance.

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

There was one citizen registered to speak on Item 11-J.

### **9. City Manager Report**

Interim City Manager Scott Falkowski said he has started the conversations with the builder in The Oaks and there is a follow-up call scheduled. He said there has been compromise and there will not be an all Hardie board home in this subdivision. He said he has begun talking with the Law Director and the Code Enforcement Administrator regarding masonry and the City Code itself. He said typically Labor Day is the last day for the splash pad at Thomas Cloud Park. He said City Staff are looking to extend that out. He said Bellefontaine Road is now open. He said there is no new update for the opening of Chambersburg Road at State Route 4. He said residents are beginning to receive updated trash bills from Republic Services with credits. He said there are also four cent trash bills that have gone out which will be waived. He said there have been less customer service complaints about Republic Services.

Mayor Gore asked Mr. Falkowski to get information about the four cent bills on the City's website.

Mr. Shaw said Gerald McDonald was looking into the trash hauling contract regarding the size and color of the recycling carts. He asked Scott Falkowski if he had heard anything back from Republic Services on that matter.

Mr. Falkowski said he has not heard anything regarding the trash cart inventory, and he will look into that issue.

### **10. Pending Business**

There was no Pending Business this evening.

### **11. New Business**

#### **CITY COUNCIL**

**Anthony Rodgers, Clerk of Council**

- A. A Motion To Authorize The City Manager To Reinstate The City Of Huber Heights' Membership With The Huber Heights Chamber of Commerce.

Clerk of Council Anthony Rodgers said this motion is to affirm the decision that was made at the last Council Work Session to reinstate the City's membership with the Huber Heights Chamber of Commerce.

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Mayor Gore said the Council Work Session recommendation was to adopt this item this evening. He said Mr. Mark Bruns, the Huber Heights Chamber of Commerce Executive Director, is in attendance this evening. He said the City had a meeting last month with Huber Heights Chamber of Commerce board members was a great step. He said he is happy the two entities are back working together. He said he looks forward to a positive relationship moving forward and for many years in the future.

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

Mr. Shaw said this is a great day and it has been over 440 days since the City has been part of the Huber Heights Chamber of Commerce. He said he truly believes the City should be one of the best and most productive members of the Chamber of Commerce. He apologized to the Executive Director and the Chamber members in attendance for what took place by a majority of the Council 440 days ago.

Mr. Otto said in the meeting packet, it reads the City's membership will be reinstated at the previous membership level. He said the level was reduced in 2018 to a basic membership. He said he hopes the City will go back to platinum level membership.

Mayor Gore said it was his understanding from the Council Work Session that the platinum level membership was discussed and will be reinstated.

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

- B. A Motion To Direct The Clerk Of Council To Respond To The Ohio Division Of Liquor Control With No Objections In Reference To New Liquor Permit #30612130080 For Little Caesar's At 5390 Brandt Pike, Huber Heights, Ohio 45424.

Mr. Rodgers said this item has been reviewed by the Police Division and the Fire Division and there were no objections in reference to this new liquor permit.

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

Ms. Baker made a motion to adopt; Mr. Webb seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; none voted nay. The motion passes 7-0.

- C. An Ordinance To Amend The Codified Ordinances of the City of Huber Heights, Ohio To Provide Amendments To The Traffic Code Sections 335.021, 331.211, 335.09, And 335.04; And To The General Offenses Code Sections 525.13, 545.03, 545.09, 509.07, 541.051, 501.99, 513.01, 541.05, And 549.02; To Provide For Codification; To Provide For Severability; And To Repeal Conflicting Ordinances.  
(first reading)

Mr. Rodgers said each year as part of the codification process, changes made to the Ohio Revised Code are codified into the City Code. He said changes are being made to the Traffic Code and General Offenses Code. He said all of the amendments have been reviewed with the Law Director.

Mayor Gore said the Council Work Session recommendation was to pass this item to a second reading and the item will be passed to a second reading.



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**ADMINISTRATION**

**Scott Falkowski, Interim City Manager**

- D. A Resolution Authorizing Certain Actions Made To Amend All Of The Current Collective Bargaining Agreements And The City's Employee Personnel Manual To Recognize Juneteenth As A City Paid Holiday For All Employees.  
(first reading)

Mr. Falkowski said Juneteenth, June 19, is now a nationally recognized federal holiday. He said the request is to make Juneteenth a paid holiday for all City employees.

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

Ms. Baker moved to adopt; Mr. Shaw seconded the motion. On a call of the vote, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, and Mr. Otto voted yea; none voted nay. The motion passes 7-0.

- E. An Ordinance Authorizing Transfers Between Various Funds Of The City Of Huber Heights, Ohio And Amending Ordinance No. 2020-O-2453 By Making Supplemental Appropriations For Expenses Of The City Of Huber Heights, Ohio For The Period Beginning January 1, 2021 And Ending December 31, 2021.  
(first reading)

Mr. Falkowski said the items in this legislation are monies coming from FEMA for the firefighters who went down to Florida to help with a disaster, a retirement payout that was not budgeted for, and the first debt payment on the Energy Performance Project lease.

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

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

Ms. Baker moved to adopt; Mr. Otto seconded the motion. On a call of the vote, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mr. Otto, Mr. Lyons, and Mr. Hill voted yea; none voted nay. The motion passes 7-0.

- F. 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. Falkowski said this item approves a wide range of assessments and there is a very long list attached to this legislation. He said the request is to pass this item as emergency legislation to meet the County Auditor's deadlines.

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

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

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Mr. Hill moved to adopt; Mr. Campbell seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 7-0.

- G. An Ordinance Authorizing An Additional Lease Transaction Pursuant To An Existing Master Tax-Exempt Lease/Purchase Agreement And Authorizing The Execution Of Related Addenda, A Property Schedule And Related Documents For The Purpose Of Making Certain Additional Energy Conservation Improvements To Various City Facilities, And Declaring An Emergency.  
(first reading)

Mr. Falkowski said this item is for the additional lease for the Energy Performance Project. He said this is lease for the next phase for the Fire Division projects. He said the existing lease could not be modified, and this item is to move forward with the new additional lease.

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

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

Mr. Webb moved to adopt; Ms. Baker seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; none voted nay. The motion passes 7-0.

- H. A Resolution Authorizing The East Water Main Extension And East Sanitary Sewer Main Extension Projects.  
(first reading)

Mr. Falkowski said this item is the first step in moving forward with the project to connect utilities along the east side of Huber Heights. He said, in the future, awarding bids for the project would come back before Council.

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

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

Mr. Shaw said in reading through this resolution, Section 1 states Council is giving the City Manager direction to take necessary actions to design and construct the project. He said nowhere in the three sections does it state any of these bids will come back before Council. He said the City Manager did state he would do that, but Mr. Shaw said he would move to amend the legislation to state Council will be kept completely up to date on any and all design and construction extensions for the project. He said this project is a very large project and it is important for this Council to stay on top of it.

Mr. Campbell said he would second the motion to amend the legislation.

Mr. Rodgers suggested Mr. Lyons and Mr. Otto withdraw the motion to adopt and the second to the motion to allow for an amendment, and Mr. Lyons and Mr. Otto did so.

Mayor Gore said there is a motion to amend the legislation to add "City Council will be kept completely up to date on any and all design and construction extensions." to the appropriate section(s) of the legislation by Mr.

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Shaw and seconded by Mr. Campbell, and he said Council can move forward on that vote.

Mayor Gore said this project is an exciting project and a tremendous opportunity to add companies and businesses to Huber Heights. He thanked Council for the support for this project.

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

Mr. Otto moved to adopt; Ms. Baker seconded the motion. On a call of the vote, Mr. Hill, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mr. Otto, and Mr. Lyons voted yea; none voted nay. The motion passes 7-0.

I. A Resolution Authorizing The City Manager To Enter Into Contracts For The Monita Field Skate Park And BMX Track Project.  
(first reading)

Mr. Falkowski said this item is for additional paving and repair work at Monita Field Park. He said the proposal in the bid package had this item in it, so it is awarding the other sections of the bid which overall are lower than any other bids.

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

Ms. Baker moved to adopt; Mr. Hill seconded the motion.

Mr. Shaw said, in looking at the proposal on the paving aspect, he asked if it includes any extension of the parking lot.

Mr. Falkowski said this work does not add any additional parking at this time. He said it was discussed at the last Council Work Session about whether that is needed, and Mr. King is looking into that issue for the future. He said Council requested and he passed on to Council the next day information about parking requirements for the parks. He said it is not required in the City Code, but Mr. King is looking into parking expansion opportunities.

Mr. Shaw said if the discussion is about an expansion, the City should make sure it gets the best bang for the buck. He said if there is potential for expansion, he would rather not rush into this work and if another week or two is needed, Council can discuss this matter at the next Council Work Session. He said if Council wants to put this expansion into action, the perfect opportunity is while dirt is being moved and fresh pavement is going down.

Ms. Baker confirmed with Mr. Falkowski that he said in the email sent to Council that there are enough parking spaces currently.

Mayor Gore said Mr. Shaw brings up a great point. He said he wants to make sure the facility holds the people and holds the cars.

Mr. Campbell asked if Mr. Falkowski could have information back from Mr. King by the next Council Work Session.

Mr. Falkowski said by the next Council Work Session, he can have that information plus quotes.

Mr. Campbell asked if the City could use the same vendor and get a per unit quote. He said he agreed with Mr. Shaw.

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Mayor Gore asked to have the motion to adopt and the second withdrawn by Ms. Baker and Mr. Hill; and have this item moved to a second reading to allow for additional discussion at the next Council Work Session.

Ms. Baker and Mr. Hill withdrew the motion to adopt and the second.

Mayor Gore said this item will be passed to a second reading.

J. A Resolution Authorizing The City Manager To Enter Into Contracts For The Monita Field Bicycle Amenities Project.  
(first reading)

Mr. Falkowski said this item is to add the pump track and bicycle skills loop to the previously approved project. He said it was previously bid for Dial Park, and the same price works at this location. He said the request is to move forward with entering into those contracts for this project.

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

Mr. Hill moved to adopt; Ms. Baker seconded the motion.

Mr. Frank Wylie said precedent comes to mind. He said the previous two-part project had been discussed then taken back to the residents of the areas in question. He said requests were made for surveys, a few Councilmembers spoke with residents, and there was an impromptu Town Hall meeting. He said at the last Council Work Session, he was disturbed to hear the Monita Field Park area had not been surveyed. He cited the businesses and residential streets in that area and said those residents have not been surveyed. He asked what is different about the Monita Field Park project than the projects at Dial Park or Powell Road when being considered for the same amenities.

Mayor Gore said this time is for citizen comments and not a question-and-answer period. He said that location used to be a municipal pool and there are baseball diamonds there. He said the people who live in that area know it is going to be an area where people are going to be using the park. He said Josh King and Scott Falkowski did not feel there was a need to survey because the residents already live near an area that was once used as a large community pool.

Mr. Wylie said the pool has been closed for ten years and the residents may have changed.

Mayor Gore asked if that was all of Mr. Wylie's comments.

Mr. Wylie said he thought this was an opportunity to speak and get some responses, and if that is not the case any longer, he misunderstood.

Mayor Gore said citizens comments are not meant for a question-and-answer session and that is the same thing he spoke to Mrs. Smith about.

Mr. Wylie asked for clarification because at the Council Work Sessions, he said citizens are occasionally allowed to speak and get answers. He said if citizens are not allowed to speak and get answers here either, then when do they get their answers?

Mayor Gore said there are certain topics at Council Work Session that become issues and based on his discretion, he will allow commentary. He said that is the nature of the Council Work Sessions.

Mr. Wylie said he tried to bring this issue up at a Council Work Session and he was told that was not the right place, so he came to this meeting and is now

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told this is not the right place. He quoted the Mayor as saying, “We typically do not allow citizens comments at Council Work Sessions.”

Mayor Gore discussed the procedure. He said if there is a Councilmember that would like to address Mr. Wylie’s comments, he has no issues with that.

Mr. Shaw said he would be happy to address Mr. Wylie’s comments. He said it is his recollection that not even the Parks and Recreation Board voted on these amenities at Monita Field Park. He said additionally, he was not aware of any Parks and Recreation Board members that were aware of any surveys or communication that took place in that general area or speaking with the businesses or residents. He said due to some of the previous comments by people on the dais, this project is compromise number five for him which he is going to approve with his vote for the simple reason that it is saving two baseball fields and the City is able to bring in additional youth sports that will better the community rather than destroying those fields.

Mr. Otto said he appreciates all of the amenities for the community, but he does not support cramming all these amenities into one space. He said the amenities should be distributed throughout the community so everyone can enjoy these things. He said for that purpose only, he will not be supporting this item.

On a call of the vote, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mr. Lyons, and Mr. Hill voted yea; Mr. Otto voted nay. The motion passes 6-1.

- 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 2022 Sidewalk Program, Providing That Abutting Owners Repair The Same.  
(first reading)

Mr. Falkowski said this item is the Resolution of Necessity for the 2022 Sidewalk Program. He said property owners will have until December 31, 2021 if they wish to hire their own contractor or perform the work themselves.

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

Ms. Baker moved to adopt; Mr. Campbell seconded the motion. On a call of the vote, Mr. Shaw, Ms. Baker, Mr. Campbell, Mr. Otto, Mr. Lyons, Mr. Hill, and Mr. Webb voted yea; none voted nay. The motion passes 7-0.

- L. A Resolution Amending Resolution No. 2021-R-6974 To Authorize An Increase In The Not To Exceed Amount For Crown Lift Trucks To Purchase One (1) Forklift Truck And Waiving The Competitive Bidding Requirements  
(first reading)

Mr. Falkowski said this item is to purchase a forklift truck requested by the Public Works Division and it is necessary to raise the not to exceed amount by \$600 to \$29,600.00 to move forward with that purchase.

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

Mr. Otto said the City is continually adding new equipment for the Public Works Division which is absolutely needed as the City grows and expands. He said he wants to re-emphasize that there needs to be a hard discussion on how to take care of the Public Works Division and expand its facilities in the future.

Mayor Gore said Mr. Falkowski has been having discussions with Mike Gray regarding personnel in the Public Works Division and what is needed. He

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said he would expect to see discussions very soon at a Council Work Session regarding a facility and personnel for the Public Works Division.

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

**12. City Official Reports and Comments**

Mr. Shaw congratulated the Wayne Warriors on the first win of the season at Welcome Stadium. He said as a parent of two students, he is so happy the kids are back in school and hope they remain there safely. He asked Scott Falkowski to get with Gerald McDonald and have Council updated on the Sneaky D's liquor objection. He said that operation is still going on and it sets a bad precedent to let a business of that nature know it can do that.

Mayor Gore agreed and said Council needs to hear from the Law Director on this item.

Ms. Baker welcomed Chick-Fil-A to Huber Heights.

Mayor Gore said school is back and he is certainly glad to have the kids back in the building. He said it has been a year and a half since 60 percent of the kids have been in a classroom. He said he is pleased with the first three days of school. He said he went to Chick-Fil-A twice, and service has been fast and efficient.

**13. Executive Session**

There was no need for an Executive Session this evening.

**14. Adjournment**

Mayor Gore adjourned the Regular Session City Council Meeting at 8:11 p.m.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

AI-7799

Pending Business    A.  
City Council

**City Council Meeting**

**Meeting Date:** 09/13/2021

Adopting Ordinance - City Code - Traffic Code/General Offenses Code Amendments

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session      **Date(s) of Committee Review:** 08/17/2021

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

**Motion/Ordinance/  
Resolution No.:** Passed to 2nd  
Reading

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**Agenda Item Description or Legislation Title**

An Ordinance To Amend The Codified Ordinances Of The City Of Huber Heights, Ohio To Provide Amendments To The Traffic Code Sections 335.021, 331.211, 335.09, And 335.04; And To The General Offenses Code Sections 525.13, 545.03, 545.09, 509.07, 541.051, 501.99, 513.01, 541.05, And 549.02; To Provide For Codification; To Provide For Severability; And To Repeal Conflicting Ordinances.  
(second reading)

**Purpose and Background**

This is an ordinance to adopt amendments to the General Offenses Code and the Traffic Code of the City Code for the period of April 3, 2020 to August 2, 2021. These amendments are based on a legal review of the Ohio Revised Code by Municode.

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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

Exhibit A

Exhibit B

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2021-O-

TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF HUBER HEIGHTS, OHIO TO PROVIDE AMENDMENTS TO THE TRAFFIC CODE SECTIONS 335.021, 331.211, 335.09, AND 335.04; AND TO THE GENERAL OFFENSES CODE SECTIONS 525.13, 545.03, 545.09, 509.07, 541.051, 501.99, 513.01, 541.05, AND 549.02; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; AND TO REPEAL CONFLICTING ORDINANCES.

WHEREAS, the City has contracted with Municipal Code Corporation (“Municode”) to publish and periodically update the City’s Codified Ordinances (“City Code”) to conform with current State law as required by the Ohio Constitution; and

WHEREAS, Municode has completed its updating and revision of the Codified Ordinances of the City of Huber Heights and provided a listing of certain proposed changes to the Codified Ordinances in order to bring City law into conformity with State law.

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

Section 1. That the Codified Ordinances of Huber Heights, Ohio are hereby amended by adding the provisions to the Traffic Code for the period from April 3, 2020 to August 2, 2021 as provided in the attached Exhibit A which is incorporated herein by this reference.

Section 2. That the Codified Ordinances of Huber Heights, Ohio are hereby amended by adding the provisions to the General Offenses Code for the period from April 3, 2020 to August 2, 2021 as provided in the attached Exhibit B which is incorporated herein by this reference.

Section 3. The addition, amendment, or removal of Huber Heights City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Huber Heights, Ohio to make the same a part of the City Code shall be deemed to be incorporated in the City Code, so that reference to the City Code includes the additions, amendments, and removals.

Section 4. Municode as the publisher of the City Code is authorized as follows:

- (a) To exclude and omit any provisions of this Ordinance that are inapplicable to the City Code within the City Code and any supplement.
- (b) When preparing a supplement to the City Code, to make formal, non-substantive changes in this ordinance and parts of this Ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code in the manner consistent with other municipal codes published by Municode.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Huber Heights, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

Section 6. All Ordinances and parts of Ordinances in conflict herewith are expressly repealed.

Section 7. 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 8. 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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## EXHIBIT A

The following sections and subsections of the Traffic Code of the City Code of Huber Heights, Ohio are new or have been amended with new matter in the City Code of Huber Heights, Ohio, and are hereby approved, adopted and enacted:

335.021 Ohio driver's license required for in state residents.

(a) Any person who becomes a resident of this State, within 30 days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this State. If the person fails to apply for a temporary instruction permit or driver's license within 30 days of becoming a resident, the person shall not operate any motor vehicle in this Municipality under a license or permit issued by another state.

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4507.213)

331.211 Report of vehicle failing to yield right-of-way to public safety vehicle.

(a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

(b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.

(2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.

(3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.

(c) (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined \$150.00.

(2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.

(d) As used in this section:

(1) "License plate" includes any temporary motor vehicle license ~~placard~~ registration issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.

(2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission. (ORC 4511.454)

### 335.09 Display of license plates.

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under Ohio R.C. 4503.19 and 4503.191. ~~However, except that~~ a commercial tractor shall display the license plate and validation sticker on the front of the commercial tractor.

(2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(3) No person to whom a temporary motor vehicle license ~~placard or windshield sticker~~ registration has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license ~~placard~~ registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, ~~or fail to display the windshield sticker in plain view on the rear window of the motor~~

vehicle.

(4) ~~No temporary license placard or windshield sticker person shall be covered~~  
cover a temporary motor vehicle license registration by any material that obstructs its visibility.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(c) The offenses established under subsection (a) of this section ~~is a~~ are strict liability offenses and Ohio R.C. 2901.20 does not apply. The designation of ~~this~~ these offenses as ~~a~~ strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4503.21)

### 335.04 Certain acts prohibited.

(a) No person shall do any of the following:

(1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;

(2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;

(3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;

(4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;

(5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4507.30)

## EXHIBIT B

The following sections and subsections of the General Offenses Code of the City Code of Huber Heights, Ohio are new or have been amended with new matter in the City Code of Huber Heights, Ohio, and are hereby approved, adopted and enacted:

525.13 Interfering with civil rights.

(a) No public servant, under color of ~~his~~ the public servant's office, employment or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (ORC 2921.45)

545.03 Property exceptions as felony offense.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

(a) A credit card;

(b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

(c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;

(d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary motor vehicle license ~~placard or windshield sticker~~ registration as prescribed by Ohio R.C. 4503.182, or any comparable ~~license plate, placard or sticker~~ temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;

(e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;

(f) A blank form for any license listed in Ohio R.C. 4507.01(A). (ORC 2913.71)

545.09 Passing bad checks.

(a) As used in this section:

(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;

B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

(b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(c) For purposes of this section, a person who issues or transfers a check or other

negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

(1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

~~(d) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:-~~

~~(1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;~~

~~(2) Furnishing such license or card, or another identification document that contains false information;~~

~~(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.~~

~~(e)~~ In determining the value of the payment for purposes of subsection (e) ~~(f)~~ of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of subsection (a) of this section within a period of 180 consecutive days.

~~(f)~~ (e) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this subsection, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of \$1,000.00 or more or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of \$1,500.00 or more, passing bad checks is a felony and shall be prosecuted under appropriate State law. (ORC 2913.11)

#### 509.07 Making false alarms.

(a) No person shall do any of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur-;

(4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of \$1,000.00 or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:—

(1) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the Revised Code.

(2) "economic harm" and "weapon of mass destruction" have the same meanings as in Section 509.06. (ORC 2917.32)

#### 541.051 Aggravated trespass.

(a) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to that person ~~him~~.

(2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.

(b) Whoever violates this section is guilty of aggravated trespass—Aggravated trespass in violation of division (A)(1) of this section is a misdemeanor of the first degree.

Aggravated trespass in violation of division (A)(2) of this section is a felony of the third degree.

(C) As used in this section, "critical infrastructure facility" has the same meaning as in section 2911.21 of the Revised Code. (ORC 2911.211)

#### 501.99 Penalties for misdemeanors.

(a) *Financial Sanctions.* In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) *Restitution.* Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution

to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five percent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) *Fines.* A fine in the following amount:

- A. For a misdemeanor of the first degree, not more than \$1,000.00;
- B. For a misdemeanor of the second degree, not more than \$750.00;
- C. For a misdemeanor of the third degree, not more than \$500.00;
- D. For a misdemeanor of the fourth degree, not more than \$250.00;
- E. For a minor misdemeanor, not more than \$150.00.

(3) *Reimbursement of costs of sanctions.*

A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

- 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
- 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.

B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court



does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)

### 513.01 Definitions

...

Hashish means ~~the a~~ resin or a preparation of ~~the a~~ resin to which both of the following apply:

(1) It is contained in ~~marijuana~~ or derived from any part of the plant of the genus *cannabis*, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(2) It has a delta-9 tetrahydrocannabinol concentration of more than three-tenths per cent.

"Hashish" does not include a hemp byproduct in the possession of a licensed hemp processor under Chapter 928. of the Revised Code, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under section 928.03 of the Revised Code. (ORC 2925.01)

...

### 541.05 Criminal trespass.

(a) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(5) Knowingly enter or remain on a critical infrastructure facility.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.

(d) (1) Whoever violates this section is guilty of criminal trespass. ~~Criminal trespass in violation of division (a)(1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of division (A)(5) of this section is a misdemeanor of the first degree.~~

(2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, Ohio R.C. 4519.47 applies.

(e) As used in this section:

(1) "All-purpose vehicle" has the same meaning as in Section 375.01 of the Traffic Code.

(2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.

**(3) "Production operation," "well," and "well pad" have the same meanings as in section 1509.01 of the Revised Code.**

**(4) "Critical infrastructure facility" means:**

(a) One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:

(i) A petroleum or alumina refinery;

(ii) An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;

(iii) A chemical, polymer, or rubber manufacturing facility;

(iv) A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;

(v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;

(vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;

(vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;

(viii) A port, trucking terminal, or other freight transportation facility;

(ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(x) A transmission facility used by a federally licensed radio or television station;

(xi) A steel-making facility that uses an electric arc furnace to make steel;

(xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27;

(xiii) A dam that is regulated by the state or federal government;

(xiv) A crude oil or refined products storage and distribution facility, including valve

sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;

(xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in section 1332.21 of the Revised Code.

(xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;

(xvii) Any above-ground portion of a well, well pad, or production operation;

(xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;

(xix) Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.

(b) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;

(c) Any railroad property;

(d) An electronic asset of any of the following:

(i) An electric light company that is a public utility under section 4905.02 of the Revised Code;

(ii) An electric cooperative, as defined in section 4928.01 of the Revised Code;

(iii) A municipal electric utility, as defined in section 4928.01 of the Revised Code;

(iv) A natural gas company that is a public utility under section 4905.02 of the Revised Code;

(v) A telephone company that is a public utility under section 4905.02 of the Revised Code;

(vi) A video service provider, including a cable operator, as those terms are defined in section 1332.21 of the Revised Code.

(5) "Electronic asset" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks. (ORC 2911.21)

#### 549.02 Carrying concealed weapons.

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance;

(3) A dangerous ordnance.

(b) No person who has been issued a concealed handgun license, shall do any of the following:

(1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;

(2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped

and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.

C. A person's transportation or storage of a firearm, other than a firearm described in Ohio R.C. 2923.11(G)—(M) in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

D. A person's storage or possession of a firearm, other than a firearm described in Ohio R.C. 2923.11(G)—(M) in the actor's own home for any lawful purpose.

(2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).

(d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this

section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.

(2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
2. At the time of the arrest, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

B. The offender shall be guilty of a misdemeanor and shall be fined \$500.00 if all of the following apply:

1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
2. Within 45 days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
3. At the time of the commission of the offense, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.

(3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

If, at the time of the stop of the offender for a law enforcement purpose that was

the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) and if the person is not in a place described in Ohio R.C. 2923.126(B), the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than \$500.00. The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- B. At the time of the citation, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

(6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in Ohio R.C. 2923.126(B)(5), and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:

- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
- B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
- C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;

D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, Ohio R.C. 2923.163(B) applies.

(H) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.  
(ORC 2923.12)

AI-7800

**Pending Business    B.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Monita Field Park - Parking - Award Contracts

**Submitted By:** Scott Falkowski

**Department:** Planning

**Division:** Parks and Recreation

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

**Date(s) of Committee Review:** 08/17/2021

**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 Enter Into Contracts For The Monita Field Skate Park And BMX Track Project.  
(second reading)

**Purpose and Background**

When the project was bid for the Monita Field Skate Park, Wagner Pavings' bid had three parts. City Staff requested approval of one portion of that bid which was approved by City Council. This legislation is for approval of the other two sections for additional asphalt repair and paving in the parking areas from that original bid. At the September 7, 2021 Council Work Session, City Staff recommended amending the existing legislation to add the expansion of the parking areas at Monita Field Park at prevailing wages to this contract with Wagner Paving (see attached). The original legislation will have a second reading at the September 13, 2021 City Council Meeting and the recommendation is to amend the original legislation at this meeting with the amended legislation prior to the adoption of the legislation.

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**Fiscal Impact**

**Attachments**

Proposal

Proposal - Updated

Presentation

Resolution

Resolution - Amended

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# Proposal

## Wagner Paving, Inc.

P.O. Box B  
Laura, Ohio 45337  
Phone: (937) 947-1834  
Fax: (937) 947-1899

COMPANY: City of Huber Heights

PHONE: (937) 902-2279

DATE: 6/01/2021

EMAIL: [jking@hhoh.org](mailto:jking@hhoh.org)

SUBJECT: Monita Field Park

TO: Josh King

TOTAL PAGES: 1

JOB NUMBER: 21-0585

We hereby submit specifications and estimates for:

### **ASPHALT REPAIRS BASED ON APPROX. 200 SQ. YD.:**

1. Mill deteriorated areas to 3" depth.
2. Haul spoil off site.
3. Sweep and clean areas.
4. Apply liquid tack to vertical edges.
5. Place and compact 2" of #301 base asphalt.

**PRICE: \$6,240.00**

### **PARKING LOT ON RIGHT OF DRIVE BASED ON APPROX. 1,538 SQ. YD.:**

1. Mill existing area to approx. 10" depth.
2. Leave milling in place to be graded and re-compacted.
3. Remove and/or add necessary stone base to achieve desired grade.
4. Apply liquid tack to vertical edges.
5. Place and compact 2" of #301 base asphalt.

**PRICE: \$29,159.00**

### **TOTAL AREA INCLUDING DRIVE AND PARKING AREA BASED ON APPROX. 4,180 SQ. YD.:**

1. Mill existing asphalt where necessary to provide level transitions.
2. Clean and sweep area.
3. Apply liquid tack to entire area.
4. Place 1 1/2" compacted #448 Type 1 surface asphalt.
5. Stripe parking areas as existing.
6. Remove and re-set (35) existing parking blocks.

**PRICE: \$30,717.00**

**NOTE: NO permits, testing, #408 prime, traffic control, or signs included IF required.**

### **NON PREVAILING WAGE RATES**

### **TAX NOT INCLUDED**

### **1 MOVE IN 2021 ONLY**

### **\*NOTES\***

### **CONFIRMATION NEEDED WITHIN 15 DAYS TO LOCK IN PRICES.**

With the greatly fluctuating cost of asphalt, aggregate, and fuel prices, 2022 and beyond prices cannot be guaranteed at this time. Wagner Paving reserves the right to adjust price fluctuations positive or negative in regards to 2022 and beyond pricing as necessary.

Any reduction in units, quantities, or increases in mobilizations may result in an increase in cost.

All grade to be sound and within tolerance. 1 move in, all others **\$850.00** each. All traffic control by others. Any overage due to poor grade done by others will be paid for by owner.

**IF THIS IS ACCEPTED AS A CONTRACT, PLEASE SIGN AND RETURN.** Project will not be started until a signed contract is received by Wagner Paving, Inc. Upon acceptance, please also forward a Notice of Commencement and any applicable tax exempt forms. Net due 30 days from date of invoice. There will be a 1 1/2% (18% apr) service charge applied to all past due accounts.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Worker's Compensation Insurance. We are an EEO employer.

**Acceptance of Proposal** -- The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

mb

Date of Acceptance: \_\_\_\_\_

Authorized  
Signature

  
**STEVE OVERHOLSER**

Note: This proposal may be withdrawn by us if not accepted within 15 days.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

## Proposal

# Wagner Paving, Inc.

P.O. Box B  
Laura, Ohio 45337  
Phone: (937) 947-1834  
Fax: (937) 947-1899

COMPANY: City of Huber Heights

PHONE: (937) 902-2279

DATE: 9/8/2021

EMAIL: [jking@hhoh.org](mailto:jking@hhoh.org)

SUBJECT: Monita Field Park REVISED

TO: Josh King

TOTAL PAGES: 1

JOB NUMBER: 21-0585

We hereby submit specifications and estimates for:

### **ASPHALT REPAIRS BASED ON APPROX. 200 SQ. YD.:**

1. Mill deteriorated areas to 3" depth.
2. Haul spoil off site.
3. Sweep and clean areas.
4. Apply liquid tack to vertical edges.
5. Place and compact 2" of #301 base asphalt.

**PRICE: \$6,490.00**

### **PARKING LOT ON RIGHT OF DRIVE BASED ON APPROX. 1,538 SQ. YD.:**

1. Mill existing area to approx. 10" depth.
2. Leave milling in place to be graded and re-compacted.
3. Remove and/or add necessary stone base to achieve desired grade.
4. Apply liquid tack to vertical edges.
5. Place and compact 2" of #301 base asphalt.

**PRICE: \$29,842.00**

### **TOTAL AREA INCLUDING DRIVE AND PARKING AREA BASED ON APPROX. 4,180 SQ. YD.:**

1. Mill existing asphalt where necessary to provide level transitions.
2. Clean and sweep area.
3. Apply liquid tack to entire area.
4. Place 1 1/2" compacted #448 Type 1 surface asphalt.
5. Stripe parking areas as existing.
6. Remove and re-set (35) existing parking blocks.

**PRICE: \$31,831.00**

**NOTE: NO** permits, testing, #408 prime, traffic control, or signs included IF required.

### **PREVAILING WAGE RATES**

### **TAX NOT INCLUDED**

### **1 MOVE IN 2021 ONLY**

### **\*NOTES\***

### **CONFIRMATION NEEDED WITHIN 15 DAYS TO LOCK IN PRICES.**

With the greatly fluctuating cost of asphalt, aggregate, and fuel prices, 2022 and beyond prices cannot be guaranteed at this time. Wagner Paving reserves the right to adjust price fluctuations positive or negative in regards to 2022 and beyond pricing as necessary.

Any reduction in units, quantities, or increases in mobilizations may result in an increase in cost.

All grade to be sound and within tolerance. 1 move in, all others \$850.00 each. All traffic control by others. Any overage due to poor grade done by others will be paid for by owner.

**IF THIS IS ACCEPTED AS A CONTRACT, PLEASE SIGN AND RETURN.** Project will not be started until a signed contract is received by Wagner Paving, Inc. Upon acceptance, please also forward a Notice of Commencement and any applicable tax exempt forms. Net due 30 days from date of invoice. There will be a 1 1/2% (18% apr) service charge applied to all past due accounts.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Worker's Compensation Insurance. We are an EEO employer.

**Acceptance of Proposal** -- The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

mb

Date of Acceptance: \_\_\_\_\_

Authorized  
Signature



**STEVE OVERHOLSER**

Note: This proposal may be withdrawn by us if not accepted within 15 days.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

## Proposal

# Wagner Paving, Inc.

P.O. Box B  
Laura, Ohio 45337  
Phone: (937) 947-1834  
Fax: (937) 947-1899

COMPANY: City of Huber Heights

PHONE: (937) 902-2279

DATE: 9-8-21

EMAIL: [jking@hhoh.org](mailto:jking@hhoh.org)

SUBJECT: Additional Parking at Monita Field Park REVISED

TO: Josh King

TOTAL PAGES: 1

JOB NUMBER: 21-0585

We hereby submit specifications and estimates for:

### **EXCAVATION BASED ON APPROX. 311 SQ. YD. INCLUDING PARKING AREA & SLOPING EMBANKMENT:**

1. Excavate area to proposed grade.
  2. Remove section of concrete on East end of new section.
  3. Remove brush and vegetation at East end of new section.
  4. All spoil to be hauled off site.
  5. Place, grade and compact 10" of 304 crushed concrete (112' x 20')
  6. Place 2" of compacted Type 2 base asphalt.
  7. Place 1.5" of compacted Type 1 surface asphalt.
  8. Stripe area for 12 car spaces.
  9. Place and pin used parking blocks.
- PRICE: \$24,664.00**

- Notes:**
1. Any tree removal of over 4" diameter will be charged labor & equipment.
  2. Any new 6' concrete parking blocks purchased & pinned @ **\$80.00 each**
  3. Seed and mulch dirt areas by owner.
  4. All work to be done at the same time as base bid.

Due to our current work under contract and the approaching fall weather conditions, Wagner Paving, Inc. cannot commit to a completion date at this time. In order for work to be considered for this fall, it is extremely important that Wagner Paving, Inc. receive a signed proposal as soon as possible. Prices will be held into 2022 if work cannot be completed until then.

**NOTE:** NO permits, testing, #408 prime, traffic control, or signs included IF required.

### **PREVAILING WAGE RATES**

### **TAX NOT INCLUDED**

### **1 MOVE IN 2021 OR 2022**

### **\*NOTES\***

### **CONFIRMATION NEEDED WITHIN 15 DAYS TO LOCK IN PRICES.**

With the greatly fluctuating cost of asphalt, aggregate, and fuel prices, 2022 and beyond prices cannot be guaranteed at this time. Wagner Paving reserves the right to adjust price fluctuations positive or negative in regards to 2022 and beyond pricing as necessary.

Any reduction in units, quantities, or increases in mobilizations may result in an increase in cost.

All grade to be sound and within tolerance. 1 move in, all others **\$850.00** each. All traffic control by others. Any overage due to poor grade done by others will be paid for by owner.

**IF THIS IS ACCEPTED AS A CONTRACT, PLEASE SIGN AND RETURN.** Project will not be started until a signed contract is received by Wagner Paving, Inc. Upon acceptance, please also forward a Notice of Commencement and any applicable tax exempt forms. Net due 30 days from date of invoice. There will be a 1 1/2% (18% apr) service charge applied to all past due accounts.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Worker's Compensation Insurance. We are an EEO employer.

**Acceptance of Proposal** -- The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

dc

Date of Acceptance: \_\_\_\_\_

Authorized  
Signature \_\_\_\_\_

**STEVE OVERHOLSER**

Note: This proposal may be withdrawn by us if not accepted within 15 days.

Signature \_\_\_\_\_

Signature \_\_\_\_\_





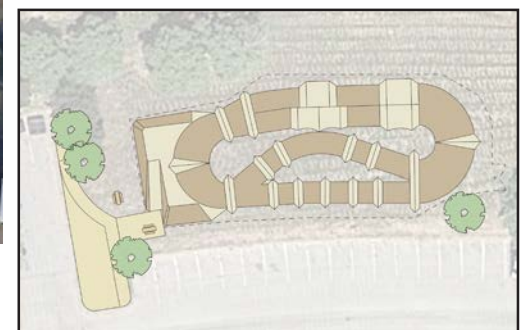
**SKILLS LOOP**



**VELOSOLUTIONS PUMPTRACK**



**SKATEPARK**



**ARMORED BMX TRACK**

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS FOR THE MONITA FIELD SKATE PARK AND BMX TRACK PROJECT.

WHEREAS, City Council has previously passed Resolution No. 2020-R-6932 approving the addition of a new amenity to the City's parks and recreation facilities for construction of a new multi-use skate park and BMX track at Monita Field Park; and

WHEREAS, City Council under Resolution No. 2021-R-6998 has previously authorized the securing of bids for construction and installation of a multi-use skate park and BMX track to be located within Monita Field Park; and

WHEREAS, bids were properly received on June 3, 2021.

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

Section 1. The City Manager is hereby authorized to enter into a contract for scope number three of the Monita Field Park Skate Park and BMX Track Project for the grinding and repaving of asphalt with Wagner Paving as the lowest and best bidder at a cost not to exceed \$35,400.00 on the terms and conditions as substantially set forth in the specifications of the contract.

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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

AUTHORIZING THE CITY MANAGER TO WAIVE THE COMPETITIVE BIDDING REQUIREMENTS AND AWARD A CONTRACT TO WAGNER PAVING FOR PARKING LOT REPAIR AND EXPANSION AT MONITA FIELD PARK.

WHEREAS, City Council has previously passed Resolution No. 2020-R-6932 approving the addition of a new amenity to the City's Parks and Recreation Facilities for construction of a new multi-use skate park and BMX track at Monita Field Park; and

WHEREAS, City Council under Resolution No. 2021-R-6998 has previously authorized the securing of bids for construction and installation of a multi-use skate park and BMX track to be located within Monita Field Park; and

WHEREAS, bids were properly received on June 3, 2021; and

WHEREAS, City Council requested additional work beyond the bid documents.

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

Section 1. The City Manager is hereby authorized to enter into a contract for grinding and repaving and expansion of the existing parking lot at Monita Field Park with Wagner Paving at a cost not to exceed \$65,000.00 on the terms and conditions as substantially set forth in the specifications of the contract.

Section 2. Consistent with the provisions of the City Charter of Huber Heights and the Huber Heights Codified Ordinances, the competitive bidding requirements are hereby waived.

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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**New Business      A.**  
**City Council**

## City Council

Liquor Permit #58111440425 - Meijer Gas - 7266 Executive Boulevard

**Department:** City Council

**Liquor Permit:**

**Resolution No.:**

A Motion To Direct The Clerk Of Council To Respond To The Ohio Division Of Liquor Control With No Objections In Reference To New Liquor Permit #58111440425 For Meijer Gas At 7266 Executive Boulevard, Huber Heights, Ohio 45424.

The Police Division has no objections to this liquor permit.

The Fire Division has no objections to this liquor permit.

**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:

## Liquor Permit



NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

58111440425		N		MEIJER STORES LIMITED PARTNERSHIP DBA MEIJER GAS STATION 241 7266 EXECUTIVE BLVD HUBER HEIGHTS OH 45424
PERMIT NUMBER		TYPE		
07 28 2021				
ISSUE DATE				
FILING DATE				
C2				
PERMIT CLASSES				
57	083	A	D09524	
TAX DISTRICT		RECEIPT NO.		

FROM 08/06/2021

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT		RECEIPT NO.	



MAILED 08/06/2021

RESPONSES MUST BE POSTMARKED NO LATER THAN. 09/07/2021

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

**A N 5811144-0425**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

**CLERK OF HUBER HGTS CITY COUNCIL  
6131 TAYLORSVILLE RD  
HUBER HGTS OHIO 45424**



**New Business      B.**  
**City Council**

## City Council

Liquor Permit #3097970 - Marathon - 7851 Old Troy Pike

**Department:** City Council

**Liquor Permit:**

**Resolution No.:**

A Motion To Direct The Clerk Of Council To Respond To The Ohio Division Of Liquor Control With No Objections In Reference To The Transfer Of Liquor Permit #3097970 For Marathon At 7851 Old Troy Pike, Huber Heights, Ohio 45424.

The Police Division has no objections to the approval of this liquor permit.

The Fire Division has no objections to the approval of this liquor permit.

**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:

## Liquor Permit

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

3097970			TRFO	GAVIN QUICK STOP LLC DBA 7851 MARATHON 7851 OLD TROY PIKE HUBER HEIGHTS OH 45424
PERMIT NUMBER			TYPE	
07	02	2019		
ISSUE DATE				
08	10	2021		
FILING DATE				
D5				
PERMIT CLASSES				
57	083	A	F25822	
TAX DISTRICT		RECEIPT NO.		

FROM 08/12/2021

3536468				HAI RADHE LLC DBA 7851 MARATHON 7851 OLD TROY PIKE HUBER HEIGHTS OH 45424
PERMIT NUMBER			TYPE	
07	02	2019		
ISSUE DATE				
08	10	2021		
FILING DATE				
D5				
PERMIT CLASSES				
57	083			
TAX DISTRICT		RECEIPT NO.		



MAILED 08/12/2021

RESPONSES MUST BE POSTMARKED NO LATER THAN.

09/13/2021

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES **A TRFO 3097970**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF HUBER HGTS CITY COUNCIL  
6131 TAYLORSVILLE RD  
HUBER HGTS OHIO 45424

AI-7833

**New Business     C.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Redwood Development Agreement Amendment

**Submitted By:** Scott Falkowski

**Department:** City Manager

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

**Date(s) of Committee Review:** 09/07/2021

**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 Execution Of That Certain First Amendment To Redwood Development Agreement Between The City Of Huber Heights, Ohio ("City"), DEC Land Co. I LLC ("DEC"), And Redwood USA LLC ("Redwood") (The "Parties"); And Giving Certain Discretionary Control To The City Relative To The Extension Of CRA Rights To Certain Property Of The Parties.  
(first reading)

**Purpose and Background**

The City entered into the Red Buckeye Development Agreement in 2015 that addresses certain property located within Carriage Trails which is intended to be used for commercial projects. This Red Buckeye Development Agreement details the use of CRA incentives related to these projects. The City added certain property to the then existing CRA area to accomplish economic development. All of the property that was added to the CRA district was not covered within the Red Buckeye Development Agreement. The owners of certain other property, not covered under the Red Buckeye Development Agreement, but added to the CRA, have agreed to only request CRA exemption if agreed to in advance by the City and that the City may deny CRA exemption at its sole discretion. This allows the City to control the granting of CRA exemptions and binds future owners of these parcels to this agreement. An agreement was created for Redwood - Phase III, and the developer is ready to move to Phase IV.

This additional agreement allows for the next phase of the Redwood (Harrison) development. The previous phases did not include a portion of the Carriage Trails and Red Buckeye assessments; however, this phase on the involved parcel does. The agreement will allow for incentives within the CRA for the advancement of the project.

---

**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**

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

APPROVING THE EXECUTION OF THAT CERTAIN FIRST AMENDMENT TO REDWOOD DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HUBER HEIGHTS, OHIO (“CITY”), DEC LAND CO. I LLC (“DEC”), AND REDWOOD USA LLC (“REDWOOD”) (THE “PARTIES”); AND GIVING CERTAIN DISCRETIONARY CONTROL TO THE CITY RELATIVE TO THE EXTENSION OF CRA RIGHTS TO CERTAIN PROPERTY OF THE PARTIES.

WHEREAS, DEC owns certain real property within the City (“Red Buckeye Developer Property”) wherein the DEC proposed to construct, or cause to be constructed, various development projects; and

WHEREAS, the City and DEC entered into a Red Buckeye Development Agreement dated September 28, 2015 to provide for the development of the Red Buckeye Developer Property; and

WHEREAS, the Parties entered into a Redwood Development Agreement dated June 12, 2019 (“Redwood Development Agreement”) to provide for the development of a portion of the Red Buckeye Developer Property for the purpose of causing to be constructed thereon approximately 82 single-story multi-family apartments known as Harrison III (“Redwood Apartment Project”); and the City passed Resolution No. 2019-R-6764 on June 10, 2019 approving the execution of the Redwood Development Agreement; and

WHEREAS, DEC and Redwood have entered into a Purchase Agreement effective April 29, 2021 to provide for the development of a portion of the Red Buckeye Developer Property for the purpose of causing to be constructed thereon approximately 34 single-story multi-family apartments to be known as Harrison IV (“Redwood Apartment Project-Harrison IV” or “Harrison IV”); and

WHEREAS, the Parties have entered into a First Amendment to Redwood Development Agreement (“First Amendment”), attached as Exhibit A (the “Property”); the Property is or will be covered by CRA Area #5; and the Parties desire to give to the City certain discretionary control over the use and application of the benefits of CRA #5 relative to the Property.

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

Section 1. The First Amendment, attached as Exhibit A, has been discussed by Council and it is determined that entering into the First Amendment is in the best interest of the City. The City Manager, for and in the name of this City, is hereby authorized to execute the Agreement, provided further that the approval of changes hereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof.

Section 2. This Council further hereby authorizes and directs the City Manager, the Director of Finance, the City Attorney, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Resolution.

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 \_\_\_\_\_, 2021.  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution No. 2021-R-\_\_\_\_\_ adopted by the Council of the City of Huber Heights, on \_\_\_\_\_, 2021. \_\_\_\_\_

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



## Exhibit A

### FIRST AMENDMENT TO REDWOOD DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO REDWOOD DEVELOPMENT AGREEMENT (the "First Amendment") is made and entered into this \_\_\_\_ day of August, 2021 (the "Effective Date"), by and between the **CITY OF HUBER HEIGHTS, OHIO** (the "City"), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the "State") and its Charter; **DEC LAND CO. I LLC**, an Ohio limited liability company (the "Developer"); and **REDWOOD USA LLC**, an Ohio limited liability company ("Redwood"), and together with the City and Developer (the "Parties") and each of the Parties individually referred to herein as a "Party", under the circumstances summarized in the following recitals:

#### RECITALS:

**WHEREAS**, the Developer owns certain real property within the City ("Red Buckeye Developer Property") wherein the Developer proposed to construct, or cause to be constructed, various development projects;

**WHEREAS**, the City and Developer entered into a Red Buckeye Development Agreement dated September 28, 2015 to provide for the development of the Red Buckeye Developer Property;

**WHEREAS**, the Parties entered into a Redwood Development Agreement dated June 12, 2019 ("Redwood Development Agreement") to provide for the development of a portion of the Red Buckeye Developer Property for the purpose of causing to be constructed thereon approximately 82 single-story multi-family apartments known as Harrison III ("Redwood Apartment Project");

**WHEREAS**, the Developer and Redwood have entered into a Purchase Agreement effective April 29, 2021 to provide for the development of a portion of the Red Buckeye Developer Property (depicted and/or described on Exhibit A attached hereto) ("Harrison IV Property") for the purpose of causing to be constructed thereon approximately 34 single-story multi-family apartments ("Redwood Apartments") to be known as Harrison IV ("Redwood Apartment Project-Harrison IV" or "Harrison IV");

**NOW, THEREFORE**, in consideration of the premises and covenants contained herein, and to induce Developer to continue to proceed with the proposed development for Harrison IV, the Parties hereto agree and obligate themselves as follows:

Paragraph 1. Harrison IV. Developer and the City hereby confirm that the Harrison IV Property lies within the real property subject to the TIF Ordinance and CRA #5 Resolution. Except to the extent necessitated by the changes set forth herein, all references to the Redwood Apartment Property in the Redwood Development Agreement shall be deemed to include the Harrison IV Property, and all references to the Redwood Apartment Project in the Redwood Development Agreement shall be deemed to include Harrison IV.

## Paragraph 2. Modifications to the Redwood Development Agreement.

### A. Definitions

- a. For purposes of Harrison IV, the last sentence of the definition of "MSP First Payment Year" shall be deleted and replaced with the following: "However, in no event shall the first payment begin later than 2025 regardless of the status of or percentage of completion of the project."
- b. The Notice Address for Redwood shall be replaced with the following:  
7007 E. Pleasant Valley Road  
Independence, Ohio 44131  
Attn: Chief Legal Office  
Email: [Legal@byredwood.com](mailto:Legal@byredwood.com)

B. Section 4.1 The parties agree that Section 4.1 of the Agreement applies only to Harrison III, and is not reflective of or applicable to the Harrison IV Property.

### C. Section 4.11 Other Obligations of Redwood

1. Red Buckeye Assessment for Harrison IV. Redwood shall pay an annual assessment for construction of Red Buckeye Parkway, in the amount of \$9,180 (\$270 per Redwood Apartment, re-calculated to the extent more or less than 34 Redwood Apartments are constructed) plus any collection fee that may be imposed by the County, which annual amount shall be payable in calendar years 2022 through and including 2042, in semi-annual installments on or before the date required for payment of the assessment as required by law.

2. Payment of the Carriage Trails Parkway Assessment for Harrison IV. Redwood shall pay an annual assessment in the amount of \$680(\$20 per Redwood Apartment, re-calculated to the extent more of less than 34 Redwood Apartments are constructed) plus any collection fee that may be imposed by the County, which annual amount shall be payable in calendar years 2022 through and including 2032, in semi-annual installments as required by law.

3. Payment of the MSP Payments for Harrison IV. Redwood shall make the following MSP payments to the City in the following years in semi-annual installments, on or before the date required for payment as required by law:

For the Redwood Apartment Project-Harrison IV, the annual amount of the Minimum Service Payment shall equal:

<u>Year</u>	<u>Annual Amount</u>
MSP First Payment Year (i.e., 2023)	\$39,837
MSP Payment Years 1-15 (i.e., 2024-2036)	\$39,837
MSP Last Payment Year (i.e., 2037)	\$39,837

D. Except as expressly set forth herein, the Redwood Development Agreement is unmodified and in full force and effect. In the event of an inconsistency between the terms



of this First Amendment and the terms of the Redwood Development Agreement, the terms of this First Amendment shall control. This First Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns. This First Amendment may be executed in one or more counterparts, each of which will be deemed an original copy of the agreement and all of which, when taken together, will be deemed one and the same agreement.

**IN WITNESS WHEREOF**, the Parties have caused this First Amendment to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

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

Title: City Manager

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

Printed: Gerald McDonald

Title: City Attorney

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me a Notary Public personally appeared \_\_\_\_\_, the authorized representative of the City of Huber Heights, Ohio, and acknowledged the execution of the foregoing instrument, and that the same is their voluntary act and deed on behalf of the City of Huber Heights, Ohio and the voluntary act and deed of the City of Huber Heights, Ohio. The Notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public

DEC Land Co. I LLC



By: Carriage Trails at The Heights LLC  
Its: Managing Member  
By: William W. Keethler II, President

STATE OF OHIO                     )  
  ) SS:  
COUNTY OF FRANKLIN         )

On this 3<sup>rd</sup> day of August, 2021, before me a Notary Public personally appeared William W. Keethler II, President of Carriage Trails at The Heights LLC, Managing Member of DEC Land Co. I LLC, an Ohio limited liability company, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of DEC Land Co. I LLC and the voluntary act and deed of DEC Land Co. I LLC. The Notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.



**CASSANDRA L. RIEHLE**  
Notary Public, State of Ohio  
My Commission Expires 08-16-2025

  
Notary Public

REDWOOD USA LLC

By: David Conwill, Authorized Signer

STATE OF OHIO )

) SS:

COUNTY OF Cuyahoga )

On this 10 day of August, 2021, before me a Notary Public personally appeared David Conwill, Authorized Member, REDWOOD USA LLC, an Ohio limited liability company, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of REDWOOD USA LLC and the voluntary act and deed of REDWOOD USA LLC. The Notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.



Jocelyn B. Musarra  
Notary Public, State of Ohio  
My Commission Expires:  
April 5, 2026

Jocelyn B. Musarra  
Notary Public

### **FISCAL OFFICER'S CERTIFICATE**

The undersigned, Director of Finance of the City of Huber Heights, Ohio under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City during the year 2021 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Dated: \_\_\_\_\_, 2021

\_\_\_\_\_  
James A. Bell  
Director of Finance  
City of Huber Heights, Ohio



AI-7834

**New Business     D.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Carriage Trails Annexation Service Agreement

**Submitted By:** Scott Falkowski

**Department:** City Manager

**Council Committee Review?:** Council     **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

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

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

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**Agenda Item Description or Legislation Title**

A Resolution Adopting A Statement Indicating The Services The City Of Huber Heights, Ohio Will Provide To The Territory Proposed To Be Annexed To The City Of Huber Heights Pursuant To A Petition Filed With The Board Of Commissioners Of Miami County By Land Owners (As Defined Below), As Provided By Ohio Revised Code Section 709.023.  
(first reading)

**Purpose and Background**

A petition is being filed to annex 233 acres along the north boundary of Huber Heights. Part of the process is for the City to provide a resolution stating that it will provide services for the area. The attached agreement allows for the City to place the land into a TIF district and allows for the developer to assign developer-funded special assessments for public infrastructure.

---

**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**

Agreement  
Resolution

---



## PRE-ANNEXATION AGREEMENT

THIS PRE-ANNEXATION AGREEMENT (the "**Agreement**") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among CARRIAGE TRAILS AT THE HEIGHTS LLC (the "**Developer**"), and the CITY OF HUBER HEIGHTS, OHIO (the "**City**"), The Developer and the City are referred to collectively herein as the "**Parties**".

### **RECITALS:**

**WHEREAS**, the Developer owns or controls by contract approximately 233.280+/- acres of land (which land is depicted on **EXHIBIT A** attached hereto and owned by the several owners as described on **EXHIBIT B** attached hereto and referred to herein as the "**Property**"); and

**WHEREAS**, the Parties agree that it is in their mutual interest during the annexation process to enter into this Agreement for the mutual benefit of the Developer and the City; and

**NOW THEREFORE**, in consideration of the covenants and agreements contained herein, the Developer and the City covenant and agree as follows:

### **Section 1. Annexation Petitions and Related Approvals.**

**A. Petition(s) for Annexation; Annexation.** The Developer agrees to prepare and file one or more petitions as required by the Ohio Revised Code ("**ORC**"), to annex the Property to the City. The annexation process shall be an "Expedited Type II" annexation as provided in ORC Section 709.023.

**B. City Service Resolution.** As required by the ORC, the City agrees to enact, prior to twenty (20) days after the date of filing the annexation petition(s) with the Board of County Commissioners of Miami County, Ohio (the "**Commissioners**"), the appropriate resolution of service (the "**Service Resolution**") stating the services that will be provided to the Property upon annexation. A copy of the proposed Service Resolution is attached hereto as **Exhibit C**.

### **Section 2. Development Considerations.**

**(i) TIF.** The Developer agrees to cooperate with the City to place Tax Increment Financing ("TIF") on the Property. The City will prepare all documents necessary to impose the TIF on the



Property and the Developer and the City will execute said documents after an agreement has been reached by the parties.

(ii) **Special Assessments.** The City agrees to approve developer-funded special assessments on terms consistent with those described in City Resolution No. 2021-R-7018 and City Ordinance No. 2021-O-2483. The terms of the special assessments will be negotiated by the parties and the parties will execute an agreement once the terms have been agreed upon.

**Section 3. Zoning Considerations.** The Developer has determined to seek zoning for a planned unit development designation similar to Carriage Trails. If, for any reason, the rezoning cannot be accomplished in a manner acceptable to the Developer and/or the rezoning is referred or defeated for any reason, and/or an ordinance, resolution or rule is enacted by the City that would adversely affect Developer's intended use of the Property, the City agrees, at the Developer's request, not to accept the annexation by allowing the 120-day acceptance period to expire and Developer may terminate this Agreement. If (i) the annexation approval occurs prior to or other than concurrently with the approval of the rezoning and the rezoning is subsequently not approved in a manner acceptable to the Developer; (ii) the annexation approval is referred to a vote of the electorate; or (iii) an ordinance, resolution or rule is enacted or adopted by the City that would adversely affect Developer's intended use of the Property, the City agrees, at the request of the Developer: (a) to reconsider the ordinance accepting the annexation and/or rescind, repeal and reject the annexation approval; or (b) to approve detachment/de-annexation from the City the part(s) of the Property and/or not oppose Developer's petition to detach/de-annex all or part the Property; and the Developer may terminate this Agreement.

**Section 4. Compliance.** Nothing in this Agreement shall abrogate the Parties hereto from the zoning, development plan, and subdivision platting process before the Planning Commission, Board of Zoning Appeals, if necessary, and before the City Council of the City.

**Section 5. Miscellaneous.**

**A. Intent of Parties.** This Agreement shall be binding upon the Parties hereto and their respective successors and/or assigns, and by execution hereof, all Parties represent that they are duly authorized to sign it. By passage of Ordinance No. \_\_\_\_\_ on \_\_\_\_\_, the City has authorized the execution of this Agreement.

**B. Public Notice and Hearings.** All public hearings will occur in accordance with the requirements of the ORC, the Rules of Regulations of the Board of County Commissioners pertaining to Annexations, and the ordinances of the City.

**C. Notices.** For purposes of this agreement, notices shall be addressed as follows:

**to the Developer at:**

Carriage Trails at The Heights LLC  
5131 Post Road, Suite 101  
Dublin, Ohio 43017  
Attn: William W. Keethler II  
[bkeethler@carriage-trails.com](mailto:bkeethler@carriage-trails.com)

**with a copy to:**

Jill S. Tangeman, Esq.  
Vorys, Sater, Seymour and Pease  
52 East Gay Street  
Columbus, Ohio 43215  
[jstangeman@vorys.com](mailto:jstangeman@vorys.com)

**to the City at:**

City of Huber Heights  
6131 Taylorsville Road  
Huber Heights, Ohio 45424  
Attn: Scott Falkowski, Interim City Manager  
[sfalkowski@hhoh.org](mailto:sfalkowski@hhoh.org)

**with a copy to:**

Gerald McDonald, Director of Law  
6131 Taylorsville Road  
Huber Heights, Ohio 45424  
[gmcdonald@pselaw.com](mailto:gmcdonald@pselaw.com)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their  
duly authorized representatives to be effective \_\_\_\_\_, 20\_\_.

CITY OF HUBER HEIGHTS, OHIO

APPROVED AS TO FORM FOR THE CITY

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

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

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

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

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

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

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

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

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me a Notary Public personally  
appeared \_\_\_\_\_, the authorized representative of the City of \_\_\_\_\_ Ohio, and  
acknowledged the execution of the foregoing instrument, and that the same is of the City of Huber  
Heights, Ohio.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on  
the date and year aforesaid.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their  
duly authorized representatives this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

DEVELOPER

CARRIAGE TRAILS AT THE HEIGHTS LLC

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

Its: \_\_\_\_\_

STATE OF OHIO                                 )  
  ) SS:  
COUNTY OF FRANKLIN                     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me a Notary Public personally  
appeared William W. Keethler II, the authorized representative of Developer and acknowledged the  
execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of  
Developer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on  
the date and year aforesaid.

\_\_\_\_\_  
Notary Public

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

ADOPTING A STATEMENT INDICATING THE SERVICES THE CITY OF HUBER HEIGHTS, OHIO WILL PROVIDE TO THE TERRITORY PROPOSED TO BE ANNEXED TO THE CITY OF HUBER HEIGHTS PURSUANT TO A PETITION FILED WITH THE BOARD OF COMMISSIONERS OF MIAMI COUNTY BY LAND OWNERS (AS DEFINED BELOW), AS PROVIDED BY OHIO REVISED CODE SECTION 709.023.

WHEREAS, Gary L. Lavy, Successor Trustee (Parcel No. A01-012200), Gessaman Family Farm, LLC (Parcel Nos. A01-012300 and A01-044400) and Raymond E. and Kriss T. Haren (Parcel No. A01-015000) (collectively referred to as the “Land Owners”), have filed with the Board of Commissions of Miami County, a petition to annex to the City of Huber Heights approximately 233.280 acres of land within Bethel Township, Miami County Ohio, (“Township”) as shown in the legal descriptions and map attached and incorporated as Exhibit A (the “Proposed Property”);

WHEREAS, the Land Owners’ property is contiguous to the City of Huber Heights Corporation limits as shown in Exhibit A; and

WHEREAS, pursuant to Ohio Revised Code Section 709.023, a special annexation procedure where land is not excluded from Township. the municipal corporation to which annexation is proposed shall adopt a resolution stating what services the municipal corporation will provide to the land petitioned to be annexed.

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

Section 1. The City of Huber Heights states that within a reasonable amount of time after completion of the annexation of the Proposed Property to the City of Huber Heights, which is anticipated to be approximately December 13, 2021, it will provide to the newly annexed territory the following services:

Police and fire protection; paramedic and ambulance services; professional engineering staff; park and recreation programming; maintenance of any and all public streets and alleyways, falling within the jurisdiction and control of the City, keeping the same open, in repair, and free from nuisance; street lighting in accordance with any citywide plan/policy for streetlights; planning and development services; fire inspections; water service, sewer service in accordance with reasonable development needs of the Proposed Property and expansion ability of City; and any and all other services provided at the discretion of City of Huber Heights, which may be in addition to those services listed herein.

Section 2. If the Proposed Property is subject to zoning regulations adopted under either Chapter 303 or 519 of the Revised Code and once annexed becomes subject to City of Huber Heights zoning which permits uses in the annexed territory that the City determines are clearly incompatible with uses under current county or township zoning in the adjacent land remaining in the Township, the City of Huber Heights shall require, in the zoning ordinance permitting the incompatible use the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township.

Section 3. The Clerk of Council is hereby directed to file a certified copy of this legislation with the Board of County Commissioners for Miami County, Ohio within twenty days following the date that the petition was filed with the County.

Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were 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 5. 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 \_\_\_\_\_, 2021.  
\_\_\_\_ Yeas; \_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

#### **CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution No. 2021-R-\_\_\_\_\_ adopted by the Council of the City of Huber Heights, on \_\_\_\_\_, 2021.

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

Exhibit A

DESCRIPTION OF 233.280 ACRES  
BETHEL TOWNSHIP, MIAMI COUNTY, OHIO  
FOR ANNEXATION TO THE CITY OF HUBER HEIGHTS

Situated in the State of Ohio, County of Miami, Township of Bethel, being parts of Sections 13, 19 and 20, Township 2, Range 9, Miami Rivers Survey, being all that property of Raymond E. & Kriss T. Haren, of record in Deed Book 616, Page 414, all that property of Gary L. Lavy, Trustee, of record in 2019OR-07903 (Tract I only), and all that property of Gessaman Family Farm LLC, of record in Deed Book 722, Page 610, all references herein being to the records of the Recorder's Office, Miami County, Ohio, and being more particularly described as follows:

Beginning at the southeasterly corner of the Haren property and in the existing northerly corporation line of the City of Huber Heights, of record in Plat Book 19, Pages 73 & 73A;

Thence along said corporation line the following courses:

1. North 84°20'09" West, a distance of 1677.87 feet to the southwesterly corner of the Lavy property 24.940-acre parcel;
2. North 5°13'29" East, a distance of 732.60 feet to the southeasterly corner of the Lavy 95-acre parcel;
3. North 84°54'54" West, a distance of 2678.46 feet to the southwesterly corner of the Gessaman Family Farm 25-acre parcel (part of Tract Two);
4. North 5°06'04" East, a distance of 614.38 feet to the southeasterly corner of the Gessaman Family Farm 14-acre parcel (Tract One);
5. North 84°34'07" West, a distance of 456.76 feet to the southwesterly corner of said 14-acre parcel;

Thence North 4°58'53" East, along the westerly line of said 14-acre parcel, a distance of 1337.64 feet to a point at the northwesterly corner of same;

Thence South 84°50'28" East, along the northerly line of said 14-acre parcel, a distance of 333.71 feet to a point;

Thence North 5°30'56" East, along the westerly line of a Gessaman Family Farm 1-acre parcel (part of Tract Two), a distance of 345.18 feet to a point in the centerline of U.S. Route 40;

Thence North 82°30'08" East, along said centerline, a distance of 251.02 feet to the northeasterly corner of another Gessaman Family Farm 1-acre parcel (part of Tract Two);

Thence South 4°37'18" West, along the easterly line of said 1-acre parcel, a distance of 400.50 feet to a point in the northerly line of said Gessaman Family Farm 25-acre parcel (part of Tract Two);

Thence South 84°54'42" East, along said northerly line and the northerly line of the Lavy 95-acre parcel, a distance of 1524.19 feet to a point at the southwesterly corner of the Lavy 20.32-acre parcel;

Thence North 4°37'18" East, along the westerly line of said 20.32-acre parcel, a distance of 743.04 feet to a point in the centerline of U.S. Route 40;

Thence North 82°20'47" East, along said centerline, a distance of 1071.14 feet the northeasterly corner of the Lavy 0.67-acre parcel;

Thence South 5°23'34" West, along the easterly line of said 0.67-acre parcel, a distance of 979.28 feet to the northwesterly corner of the Lavy 25-acre parcel;

Thence South 84°54'42" East, along the northerly line of said 25-acre parcel, a distance of 810.30 feet to the northeasterly corner of same;

Thence South 5°48'08" West, along the easterly line of said 25-acre parcel, a distance of 1353.47 feet to the northwesterly corner of the Haren 26.697-acre parcel;

Thence South 84°12'49" East, along the northerly line of said 26.697-acre parcel, a distance of 867.90 feet to the northeasterly corner of same;

Thence South 4°39'21" West, along the easterly line of said 26.697-acre parcel, a distance of 1339.13 feet to the place of beginning and containing 233.280 acres of land, 76.313 acres in Section 13, 132.453 acres in Section 19 and 24.514 acres in Section 20.

Total perimeter of this annexation area is 17,517 feet of which 6,160 feet is contiguous with the existing City of Huber Heights corporation line, producing a 35% perimeter contiguity.

Bearings herein are based on the Ohio State Plane Coordinate System, South Zone, NAD 83.

This description was prepared by IBI Group Survey based on information obtained from partial field surveys, the Miami County Engineer's record of land surveys and the Miami County Recorder's deed records and plat records, in May 2021.



By *David L. Chiesa*  
David L. Chiesa                      Date 05/27/21  
Registered Surveyor No. 7740



AI-7839

**New Business E.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

OneOhio Subdivision Settlement Participation Form – National Opioid Settlement

**Submitted By:** Scott Falkowski

**Department:** City Manager

**Council Committee Review?:** Council Work Session  
**Date(s) of Committee Review:** 09/07/2021

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

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

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**Agenda Item Description or Legislation Title**

A Resolution Ratifying The Acceptance Of The Material Terms Of The OneOhio Subdivision Settlement Pursuant To The OneOhio Memorandum Of Understanding And Consistent With The Terms Of The July 21, 2021 National Opioid Settlement Agreement.  
(first reading)

**Purpose and Background**

There may be a settlement between the State of Ohio and certain opioid distributors that could result in Huber Heights receiving between \$172,000 and \$246,000 (the Montgomery County portion) and between \$4,000 and \$6,000 (the Miami County portion). Johnson and Johnson is close to settling as well and if it does these amounts will increase. It appears that the funds, if distributed are to be used "to prevent, treat and support recovery from addiction including opioids and/or any other co-occurring substance use and/or mental health conditions which are all long-lasting (chronic) diseases that can cause major health, social, and economic problems at the individual, family and/or community level." It is unclear at this time how it will be disbursed or even how it can be spent (assuming there is a settlement). The proposed settlement on the table requires at least 95% participation from local governments (among other things) so OML was pushing to get its members to vote to accept this settlement. The City needed to submit its approval by August 13, 2021 and this subsequent legislation ratifying the acceptance of the settlement keeps the process moving forward.

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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. 2021-R

RATIFYING THE ACCEPTANCE OF THE MATERIAL TERMS OF THE ONEOHIO SUBDIVISION SETTLEMENT PURSUANT TO THE ONEOHIO MEMORANDUM OF UNDERSTANDING AND CONSISTENT WITH THE TERMS OF THE JULY 21, 2021 NATIONAL OPIOID SETTLEMENT AGREEMENT.

WHEREAS, Huber Heights, Ohio is a municipal entity formed and organized pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, the people of the State of Ohio and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Opioid Pharmaceutical Supply Chain; and

WHEREAS, the State of Ohio, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Opioid Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance; and

WHEREAS, the State of Ohio, through its Governor and Attorney General, and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Ohio; and

WHEREAS, the State and its Local Governments, subject to completing formal documents effectuating the Parties Agreements, have drafted and Huber Heights has filed its affirmation of the adoption of, a OneOhio Memorandum of Understanding (“MOU”) relating to the allocation and the use of the proceeds of any potential settlements described; and

WHEREAS, the MOU has been collaboratively drafted to maintain all individual claims while allowing the State and Local Governments to cooperate in exploring all possible means of resolution; and

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

WHEREAS, nothing in the MOU binds any party to a specific outcome, but rather, any resolution under the MOU requires acceptance by the State of Ohio and the Local Governments; and

WHEREAS a settlement proposal is being presented to the State of Ohio and Local Governments by distributors AmerisourceBergen, Cardinal, and McKesson (collectively the “Settling Distributors”) to resolve governmental entity claims in the State of Ohio using the structure of the OneOhio MOU and consistent with the material terms of the July 21, 2021 proposed National Opioid Distributor Settlement Agreement; and

WHEREAS, Local Governments were required to file a participation form, a copy of which is attached hereto as Exhibit A, (“Participation Agreement”) pursuant to the MOU regarding the pursuit and use of potential opioid litigation settlement funds and consistent with the material terms of the July 21, 2021 proposed National Opioid Distributor Settlement Agreement available at <https://nationalopiodsettlement.com/>; and

WHEREAS, the Participation Agreement had to be filed prior to August 13, 2021, in order to move the settlement process forward, and the City Manager timely filed same as an indication of

the City’s acceptance of the material terms of the proposed National Opioid Distributor Settlement Agreement with the Settling Distributors (the “Proposed Settlement”).

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

Section 1. City Council ratifies and approves the filing by the City Manager of the Participation Agreement attached hereto as Exhibit A and the City Manager is authorized to accept the Proposed Settlement on behalf of the City, pursuant to the terms of the OneOhio MOU.

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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXHIBIT A

**OneOhio Subdivision Participation Form**

Governmental Entity:	City of Huber Heights	State: Ohio
Authorized Official:	Scott P. Falkowski	
Address 1:	6131 Taylorsville Rd	
Address 2:		
City, State, Zip:	Huber Heights, OH 45424	
Phone:	937-237-5821	
Email:	sfalkowski@hhoh.org	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity consistent with the material terms of the National Settlement Agreement dated July 21, 2021 ("*National Distributor Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the material terms of the National Settlement Agreement Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the National Distributor Settlement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate consistent with the material terms of the National Distributor Settlement and become a Participating Subdivision as provided therein pursuant to the terms of the final OneOhio Memorandum of Understanding dated July 28, 2021.
2. The Governmental Entity's election to participate is specifically conditioned on participation by 95% or more of the Litigating Subdivisions in Ohio. Should less than 95% of the Litigating Subdivisions in Ohio participate, this election shall be deemed void and no claims shall be released.
3. The Governmental Entity shall, prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
4. The Governmental Entity agrees to the material terms of the National Distributor Settlement pertaining to Subdivisions as defined therein.
5. By agreeing to the material terms of the National Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the material terms of the National Distributor Settlement solely for the purposes provided therein.

7. The Governmental Entity submits to the jurisdiction of the Madison County Court of Common Pleas where the Consent Judgment is filed for purposes limited to the court's role as provided in, and for resolving disputes to the extent provided in, the material terms of the National Distributor Settlement Agreement. If the National Distributor Settlement is finalized, the Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the National Distributor Settlement.
8. The Governmental Entity has the right to enforce the material terms of the National Distributor Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the material terms of the National Distributor Settlement, including, but not limited to, all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the material terms of the National Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The material terms of National Distributor Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision consistent with the material terms of the National Distributor Settlement.
11. In connection with the releases provided for in the material terms of the National Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by

him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the material terms of the National Distributor Settlement.

12. Nothing herein is intended to modify in any way the terms of the material terms of the National Distributor Settlement to which Governmental Entity hereby agrees, with the exception of the requisite Litigating Government participation level. If the National Settlement becomes effective by July 1, 2022 its terms will supersede the terms of the Ohio Settlement Agreement and will control with regard to all provisions except for Dismissal of Claims as set forth in the Ohio Settlement Agreement. If it is not effective by July 1, 2022, the Ohio Specific Distributor Settlement will control. To the extent this Participation Form is interpreted differently from the Ohio Specific Distributor Settlement in any respect, the Ohio Specific Distributor Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity and have been afforded the opportunity to review this matter with counsel.

Signature:



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Name:

Scott P. Falkowski

Title:

Interim City Manager

Date:

8/11/21

AI-7836

**New Business F.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

TJL-CES, LLC Purchase Agreement - Sale of Property

**Submitted By:** Bryan Chodkowski

**Department:** Economic Development

**Council Committee Review?:** Council Work Session  
**Date(s) of Committee Review:** 09/07/2021

**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 Execute A Purchase Agreement With TJL-CES, LLC.  
(first reading)

**Purpose and Background**

The City has negotiated a Purchase Agreement for TJL-CES, LLC to purchase ~1 acre of City-owned property located at the northwest intersection of Brandt Pike and Meijer Access Drive. The agreed upon purchase price is \$150,000 per acre which is in line with recent appraisal values. The purchaser intends to construct a limited, quick service restaurant. This agreement also presents future outlot development opportunities on Meijer Access Drove.

The agreement has been reviewed by the Law Director and it is City Staff's recommendation that City Council approve the proposed purchase agreement.

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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. 2021-R-

AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AGREEMENT WITH TJL-CES, LLC.

WHEREAS, the City seeks to invigorate economic development; and

WHEREAS, the City has negotiated a Purchase Agreement with TJL-CES, LLC to purchase approximately one acre of the Lehman Farm from the City located at the northwest corner of Brandt Pike (State Route 202) and Meijer Access Drive.

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

Section 1. The City Manager is hereby authorized and directed to execute a Purchase Agreement with TJL-CES, LLC as approved by the Law Director and attached hereto as Exhibit A as if incorporated herein.

Section 2. The City Manager is further authorized to pay a seller's commission to Paul Howe Realty, Inc. in an amount not to exceed 3%, or \$4,500.00, for services rendered as related to this Purchase Agreement. The terms and conditions of the seller's commission shall be subject to review and approval of the Law Director.

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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## EXHIBIT A - PURCHASE AGREEMENT

THIS AGREEMENT is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2021, by and between the **City of Huber Heights, Ohio** (hereinafter referred to as "Seller") and **TJL-CES, LLC**, an Ohio limited liability company (hereinafter referred to as "Purchaser") to evidence the following understandings, covenants and agreements:

### 1. LEGAL DESCRIPTION

Purchaser agrees to buy and Seller agrees to sell certain property located on Brandt Pike, Huber Heights, Ohio and depicted Exhibit "A" (the "Property").

The Property includes: (a) the land; and (b) all appurtenant rights, privileges and easements. All of the Property shall be free and clear of liens and security interests on the Closing Date.

Seller at Seller's expense, cause a lot split (but not a survey) of the Property to establish the Property as a separate conveyable parcel.

Seller shall cause to be prepared and delivered to Buyer the proposed lot split of the Property. The lot split shall be subject Buyer's approval, not to be unreasonably withheld. Upon Buyer's approval of the lot split, Seller shall proceed to get all necessary public approvals of the lot split. Seller shall cause the lot split to be recorded with Montgomery County prior to Closing. Upon the recording of the lot split, the legal description of the Property shall be used on the Deed as described herein

### 2. PURCHASE PRICE AND EARNEST MONEY

By this Agreement, Seller hereby agrees to sell and Purchaser agrees to purchase, subject to certain conditions contained herein, the Property. The total purchase price for all the Property shall be One Hundred Fifty Thousand and no/100 Dollars (\$150,000.00) per acre, based on the acreage reflected on the lot split of the Property. The Purchase Price shall be paid at the Closing.

(a) Purchaser shall deposit Earnest Money of Five Thousand and no/100 Dollars (\$5,000.00) (the "Earnest Money"), with Fidelity Lawyers Title Agency, LLC as Escrow Agent to be held pursuant to the terms hereof. The Earnest Money shall be credited toward the Purchase Price at Closing or shall be otherwise dealt with according to the terms of this Agreement. If the closing does not occur because of Seller's default or because any condition of this Contract is not satisfied or waived, Purchaser shall be entitled to the Earnest Money. If Purchaser defaults, Seller shall be entitled to the Earnest Money. The Earnest Money shall be held by the Escrow Agent until one of the following occurs: (1) the transaction closes and the Escrow Agent disburses the Earnest Money pursuant to the terms of this Agreement; (2) the parties provide the Escrow Agent with written instructions that both parties have signed that specify how the Escrow Agent is to disburse the Earnest Money; (3) the Escrow Agent receives a copy of a final court order that specifies to

whom the Earnest Money is to be awarded; or (4) the funds become unclaimed and the Escrow Agent turns them over to the Division of Unclaimed Funds. However, if within two years from the date the Earnest Money is deposited with the Escrow Agent, the parties have not provided the Escrow Agent with such signed instructions or written notice that legal action to resolve the dispute has been filed, the Escrow Agent may return the Earnest Money to Purchaser with no further notice to Seller. Payment or refund of the Earnest Money shall not prejudice the rights of the non-defaulting party in an action for damages or specific performance against the defaulting party.

### 3. OBLIGATIONS CONDITIONAL

A. Purchaser's Conditions Precedent. The Purchaser's obligations under this Agreement shall be subject to satisfaction of each of the following conditions listed in subparagraphs (1) through (7) inclusive (collectively, the "Conditions"). The cost of satisfying the Conditions shall be the responsibility of Purchaser.

Purchaser shall have a period of ninety (90) days (the "Due Diligence Period") in which to determine if the Conditions have been met. If, during the Due Diligence Period (or at the end of any applicable cure period), Purchaser determines that any Condition has not been reasonably satisfied, then Purchaser shall have the right to terminate this Agreement by written notice to Seller and Escrow Agent shall promptly refund the Earnest Money to Purchaser. If Purchaser terminates the Agreement as provided in this Section then Purchaser agrees to deliver originals or copies of its inspection reports to Seller. However, if Purchaser has not notified Seller that any Condition remains unsatisfied by the expiration of the Due Diligence Period (or the end of any applicable cure period which extends beyond the Due Diligence Period), then all of the Conditions will conclusively be deemed to have been satisfied or waived.

(1) Title. Purchaser shall secure a commitment for an owner's policy of title insurance which shall be acceptable to Purchaser.

(2) Survey. Purchaser shall obtain an ALTA survey of the Property, which survey shall contain the legal description of the Property and shall show the location of all improvements located upon the Property. Such survey shall show no encroachments, overlaps, gaps, gores or other irregularities.

(3) Inspections. Purchaser shall have the right to make a thorough inspection of the Property and Purchaser shall have access to the Property for the purpose of completing the inspections.

(4) Environmental Study. Purchaser shall secure a Phase I environmental site assessment to be performed regarding the Property, which assessment shall be made by a qualified environmental assessment professional person or organization. If such report concludes that the Property, or any part thereof, is unsuited for Purchaser's intended use of the Property due to land contamination by any

Hazardous Material, as defined below, Purchaser shall have the option to terminate this Agreement in its entirety or as to such part of the Property which contains the contamination.

(5) Quantity of Utilities. Purchaser shall have satisfied itself that electricity, gas, water, telephone, sanitary sewer and storm sewers are available to the Property in sufficient capacities to service the Purchaser's proposed use of the Property.

(6) Zoning. Purchaser shall have determined that the current zoning of the Property permits Purchaser's intended use of the Property.

(7) Access. Purchaser shall have obtained an access easement from the owner of the adjacent Meijer parcel providing perpetual access to the Property on terms and conditions acceptable to Purchaser in Purchaser's sole discretion (the "Meijer Easement").

The Due Diligence Period may be extended for one (1) additional period of sixty (60) days only for the purpose of obtaining the Meijer Easement. Such extension shall be made if all by written notice from Buyer to Seller given on or before the conclusion of the original Due Diligence Period.

B. Seller's Right to Cure. If any of the above reports or inspections disclose any materially adverse condition unacceptable to Purchaser, then the Purchaser shall promptly deliver written notice to the Seller and Seller shall have thirty (30) days to remedy (at Seller's sole cost and expense) and at Seller's discretion, any materially adverse condition Purchaser has objected to in writing. If Seller does not begin efforts reasonably calculated to remedy the objection within fifteen (15) days after the date of Purchaser's notice then Purchaser shall have the right to terminate this Agreement by written notice to the Seller. However, in the event that Seller is unable or unwilling to cure any objection made by Purchaser, Purchaser may, by written notice to Seller, waive such condition and proceed to purchase the Property.

C. Inspections. Purchaser, or its consultants, shall have the right during the Due Diligence Period to enter upon the Property at reasonable times so as not to interfere with Seller's use of the Property, to gather such information, including, but not limited to, surveys, soils tests, and environmental assessment reports, as it deems necessary. Purchaser agrees to return or restore the Property to substantially its original state within a reasonable time period after the tests are conducted, not to exceed sixty (60) days after completion of the tests. Purchaser shall indemnify and hold Seller harmless from any and all claims, costs or liability arising from the entry onto the Property and testing performed by Purchaser, its consultants, agents or employees.

D. AS IS. Should Purchaser decide to Close on the Property after the Due Diligence Period, all above contingencies shall be deemed satisfied or waived and the Property shall be transferred in its AS IS condition.

4. COVENANTS AND WARRANTIES OF PURCHASER

Purchaser covenants and warrants to Seller as follows:

A. Authorization. Purchaser has full legal power and authority to purchase the Property as provided for herein, without any other consent or proceeding required from any other person, entity or organization and the person executing this Agreement on behalf of Purchaser is fully authorized to act on behalf of the Purchaser.

B. Conflict. The execution, delivery and performance of this Agreement by Purchaser does not conflict with or result in a breach of the provisions of, or constitute a default under the terms of Purchaser's organizational documents or any mortgage, deed of trust, franchises, permit, license, note, agreement or other instrument to which Purchaser is a party or by which Purchaser may be bound.

5. COVENANTS AND WARRANTIES OF SELLER

Seller covenants and warrants to Purchaser as follows:

A. Authorization. Seller has full legal power and authority to own and convey the Property as provided for herein, without any other consent or proceeding required from any other person, entity or organization and the person executing this Agreement on behalf of Seller is fully authorized to act on behalf of Seller.

B. Conflict. Neither the entering into of this Agreement nor any Closing under this Agreement will constitute a violation or breach by Seller of any contract, agreement, encumbrance, court order or other instrument to or by which Seller may be bound.

C. Litigation. There is no pending litigation or claim which affects or which might affect the Property.

D. Work in Progress. No work has been performed or is in progress upon the Property and no materials have been furnished to the Property or any portion thereof which after Closing could give rise to any mechanics, materialmen, or other liens and at Closing, Seller shall furnish to Purchaser an affidavit attesting to the absence of any such liens or rights to liens. Further, as of the date of this Agreement, no assessments for public improvements or otherwise have been made against the Property which remain unpaid (including without limitation, those for construction of water, sewer, gas and electric lines).

E. Hazardous Materials. Seller represents that, to the best of Seller's knowledge, the Property is free from any material or substance presently prohibited or regulated by any governmental authority or which is presently known to pose a hazard to the health or safety of occupants or the Property ("Hazardous Material"). During Seller's ownership of the Property it has been used primarily for farming purposes only.

F. Title. Seller owns fee simple marketable title to the Property and no other person or entity has any right to the Property which is based on encumbrances, written agreements or oral understandings, other than matters which appear in the public record. For the purposes of this paragraph, "marketable title" shall be determined by reference to the Ohio State Bar Association Standards of Title Examination.

G. No Encroachments. Seller has no notice and no knowledge of any facts which would reasonably put Seller on notice: (1) of any dispute regarding the location of the Property lines; (2) that any improvements on adjacent properties encroach onto the Property; or (3) that any improvement on the Property encroaches upon any adjacent property.

H. No Violations. Seller has no notice and no knowledge of any facts which would reasonably put Seller on notice regarding: (1) the removal or abatement of any nuisance; (2) any building code violation on the Property; (3) the violation of any zoning ordinances affecting the Property; or (4) any violation of any other regulation of any governmental authority having jurisdiction over the Property.

I. No Condemnations or Assessments. The Property is not subject to any pending condemnation or proceeding in eminent domain and Seller is not aware of any planned or threatened proceedings. There are no special assessments affecting the Property and Seller is not aware of any planned improvements which might lead to the imposition of any such assessments.

Seller shall reaffirm to Purchaser that these warranties are true at the time of the Closing.

## 6. CLOSING AND POSSESSION

Subject to the conditions precedent to Purchaser's obligation to close as provided in Item 3 hereof, the Closing shall occur within thirty (30) days after the end of the Due Diligence Period, at such place in Montgomery County, Ohio as agreed upon by both parties. Possession of the Property shall be delivered to Purchaser at the Closing. Seller, at Seller's expense shall terminate any agreement for tenant farming affecting the Property.

## 7. MARKETABLE TITLE AND REAL ESTATE TAXES

At the Closing, Seller shall convey to Purchaser good and marketable title to the Property by general warranty deed. Such deed shall vest in Purchaser full title to the Property, free and

clear of all liens and encumbrances and the rights to take liens and encumbrances, except: (a) legal highways; (b) installments of taxes and assessments becoming due and payable after the Closing Date; (c) zoning; and (d) any other exception disclosed in the title insurance commitment and accepted by the Purchaser in writing on or before the Closing Date. Seller shall have paid (or shall credit against the Purchase Price at Closing) all taxes and assessments, if any, due and payable prior to the Closing date.

8. PRORATIONS AT CLOSING

A. Taxes. The Seller shall also pay or credit a prorata share of the next estimated semi-annual installment of taxes and assessments due and payable in accordance with location custom; except that if the assessments are assessed annually, then the proration of assessments shall be based upon the annual assessment. The Seller's prorata share shall be computed based upon the number of days elapsing between the most recent semi-annual installment and the Closing Date. Seller shall be responsible for the payment of any agricultural recoupment.

B. Utilities. Water, electricity, steam and gas meters shall be read as of the date of Closing and Seller shall pay all final bills, including all sewer charges, in full as of the Closing date.

9. DAMAGE OR DESTRUCTION OF PROPERTY

Seller shall keep the Property adequately insured against fire and extended coverage perils and shall maintain the Property in its present condition until Closing. Seller shall bear all risk of loss to the Property until Closing. If any of the Property is materially damaged, or destroyed before the Closing, Purchaser may either: (a) proceed with the Closing and be entitled to all insurance proceeds not exceeding the Purchase Price, if any, payable to the Seller under all policies covering the Property plus an amount equal to Seller's insurance deductible(s); or (b) terminate this Agreement by giving written notice to Seller within twenty (20) days after the Purchaser receives written notice of the damage or destruction, including the amount of insurance proceeds payable. If Purchaser terminates this Agreement for the reasons stated in this Section the Escrow Agent shall immediately refund the Earnest Money to Purchaser.

10. DEFAULT BY SELLER

Seller shall be in Default hereunder if, (a) Seller fails or refuses to deliver good and marketable title to the Property at the Closing; (b) Seller shall fail to comply with any material term, provision or condition of this Agreement; or (c) any of the representations and warranties made by Seller herein shall be in any material respect misleading, inaccurate or untrue. Upon the occurrence of any default of Seller hereunder, Purchaser shall give Seller written notice specifying the nature of the default. If Seller does not cure the default within 30 days, or other period of time agreed upon by Purchaser, the Purchaser may then as its only remedies, (a) seek specific performance of this Agreement; (b) cancel future obligations under this Agreement by giving

written notice of such cancellation to Seller and receive a return of the Earnest Money; or (c) take title subject to the defect, exception, objection inaccuracy or failure.

#### 11. DEFAULT BY PURCHASER

Purchaser shall be in Default hereunder if Purchaser (a) fails to comply with any material term, provision or condition of this Agreement; (b) fails to timely close the purchase of the Property and such closing deadline is not extended in writing by Seller; (c) enters into a general assignment or arrangement for the benefit of creditors; (d) files a voluntary petition in bankruptcy; (e) has filed against it a petition in bankruptcy and the same not having been dismissed within ninety (90) days after its filing; or (f) has appointed a receiver with respect to the property or assets of Purchaser. Upon the occurrence of a default by Purchaser hereunder, Seller shall give Purchaser written notice specifying the nature of the default. If Purchaser does not cure the default within 30 days, or other period of time agreed upon by Seller, Seller may then as its only remedies (a) terminate this Agreement upon written notice to Purchaser and thereby relieve the Property from the terms of this Agreement, and (b) retain the Earnest Money as liquidated damage, it being agreed that actual damage would be impossible to ascertain. .

#### 12. COMMISSIONS

Except for Paul Howe Realty, Inc. representing the Purchaser, whose commission shall be paid pursuant to a separate letter agreement, each party represents to the other that it has not retained any broker or agreed to pay any brokerage fee or commission to any agent or broker for, or on account of, this Agreement or the transactions contemplated hereby and each party agrees to indemnify the other against claims for commissions arising from the actions of said party.

#### 13. SURVIVAL

The representations, warranties and covenants contained herein shall survive the closings provided for herein and delivery of the deeds pursuant hereto.

#### 14. NOTICES

Notice to Purchaser required or provided for herein shall be in writing and shall be deemed given when deposited in the U.S. mail, certified or registered, postage prepaid, addressed to Purchaser at:

TJL-CES, LLC  
5099 Springboro Pike,  
Moraine, OH 45439

or such other address in Ohio as Purchaser shall notify Seller in writing. Notice to Seller required or provided for herein shall be in writing and shall be deemed given when deposited in the U.S. mail, certified or registered, postage prepaid, addressed to Seller at:

City of Huber Heights,  
6131 Taylorsville Road  
Huber Heights, OH 45424

or such other address in Ohio as Seller shall notify Purchaser in writing.

15. PERSONS BOUND

This Agreement shall be binding upon and shall inure to the benefit of the undersigned parties and their respective successors and permitted assigns.

16. APPLICABLE LAW; TIME OF ESSENCE

This Agreement shall be controlled, construed and enforced in accordance with the laws of the State of Ohio. Time is of the essence in the performance of all obligations of each of the parties under this Agreement.

17. AMENDMENT

This Agreement including all Exhibits and attachments hereto which are hereby incorporated by reference into this Agreement, represents the entire Agreement between the parties and supersedes all prior oral and written proposals and communications and may be amended only by written instrument executed by Seller and Purchaser through their respective officials or officers who are thereunto duly authorized.

18. COUNTERPARTS

This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

19. COUNCIL APPROVAL

This Agreement shall not be binding upon the City of Huber Heights unless approved by City Council.

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed as of the day and year first above stated.

**PURCHASER:**

TJL-CES, LLC, an Ohio limited liability company

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



Its: \_\_\_\_\_

**SELLER:**

City of Huber Heights, Ohio

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

Its: \_\_\_\_\_

EXHIBIT "A"

PROPERTY DEPICTION



AI-7837

**New Business     G.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Community Reinvestment Area (CRA) #6 - First Amendment

**Submitted By:** Bryan Chodkowski

**Department:** Economic Development

**Council Committee Review?:** Council     **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

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

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

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**Agenda Item Description or Legislation Title**

A Resolution Amending Community Reinvestment Area #6 By Including Additional Properties Within Community Reinvestment Area #6.  
(first reading)

**Purpose and Background**

This legislation is the second of two pieces of legislation to support development at the northeast corner of Old Troy Pike and Taylorsville Road. As Council was previously briefed, this development partnership facilitates the necessary resources to fund traffic improvements from Taylorsville Road north to I-70. These improvements are designed to increase traffic flow and reduce traffic congestion.

This legislation extends Community Reinvestment Area #6 over all parcels in and around the development site for continuity of benefit. Companion legislation being entertained by Council removes several disjointed parcels in and around the development site from Community Reinvestment Area #7.

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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.1  
Exhibit A.2

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

AMENDING COMMUNITY REINVESTMENT AREA #6 BY INCLUDING ADDITIONAL PROPERTIES WITHIN COMMUNITY REINVESTMENT AREA #6.

WHEREAS, the City of Huber Heights desires to encourage the development of and reinvestment in certain real property in the City; and

WHEREAS, on November 8, 1993 Resolution No. 93-R-1347 created Community Reinvestment Area #6 within the City of Huber Heights; and

WHEREAS, a housing survey was undertaken with respect to the creation of Community Reinvestment Area #6 and includes land described in Exhibit A.1 (which is attached hereto and incorporated herein by reference) and is on file with the Clerk of Council; and

WHEREAS, the City of Huber Heights has determined it is in the best interest of the City to amend Resolution No. 93-R-1347 to include those additional lands described on the attached Exhibits A.1 and A.2 within Community Reinvestment Area #6; and

WHEREAS, this is the first amendment to Community Reinvestment Area #6 which was created prior to November 8, 1993 and accordingly, the amended Community Reinvestment Area #6 shall be subject to the applicable provisions of the Ohio Revised Code in existence at the time Community Reinvestment Area #6 was originally created.

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

Section 1. The area set forth in Exhibits A.1 is hereby found and determined to be an area in which housing facilities or structures of historical significance are located and in which new housing construction and repair of existing facilities or structures are discouraged. It is further found by the Council that remodeling of existing structures and new construction on properties described in Exhibits A.1 and A.2 would serve to encourage economic stability, maintain real property values, and generate new employment opportunities.

Section 2. The exemptions from real estate taxation as described in Resolution No. 93-R-1347 shall apply to the newly expanded Community Reinvestment Area #6 which shall now include those properties as described in Exhibits A.1 and A.2.

Section 3. The City Council reserves the right to re-evaluate the designation of Community Reinvestment Area #6 after January 1, 2022 at which time the Council may direct the Housing Officer not to accept any new applications for tax exemptions as referred to in Section 3735.67, Ohio Revised Code.

Section 4. The City Manager shall remain the Housing Officer for Community Reinvestment Area #6 as required by the Ohio statutes referred to in Section 2 above.

Section 5. The Community Reinvestment Area Housing Council created under Resolution No. 93-R-1347 shall continue to serve as the Community Reinvestment Area Housing Council for Community Reinvestment Area #6.

Section 6. The Clerk of Council is hereby directed to deliver a copy of this Resolution to the Montgomery County Auditor and Ohio Department of Development for information and reference.

Section 7. 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 8. 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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

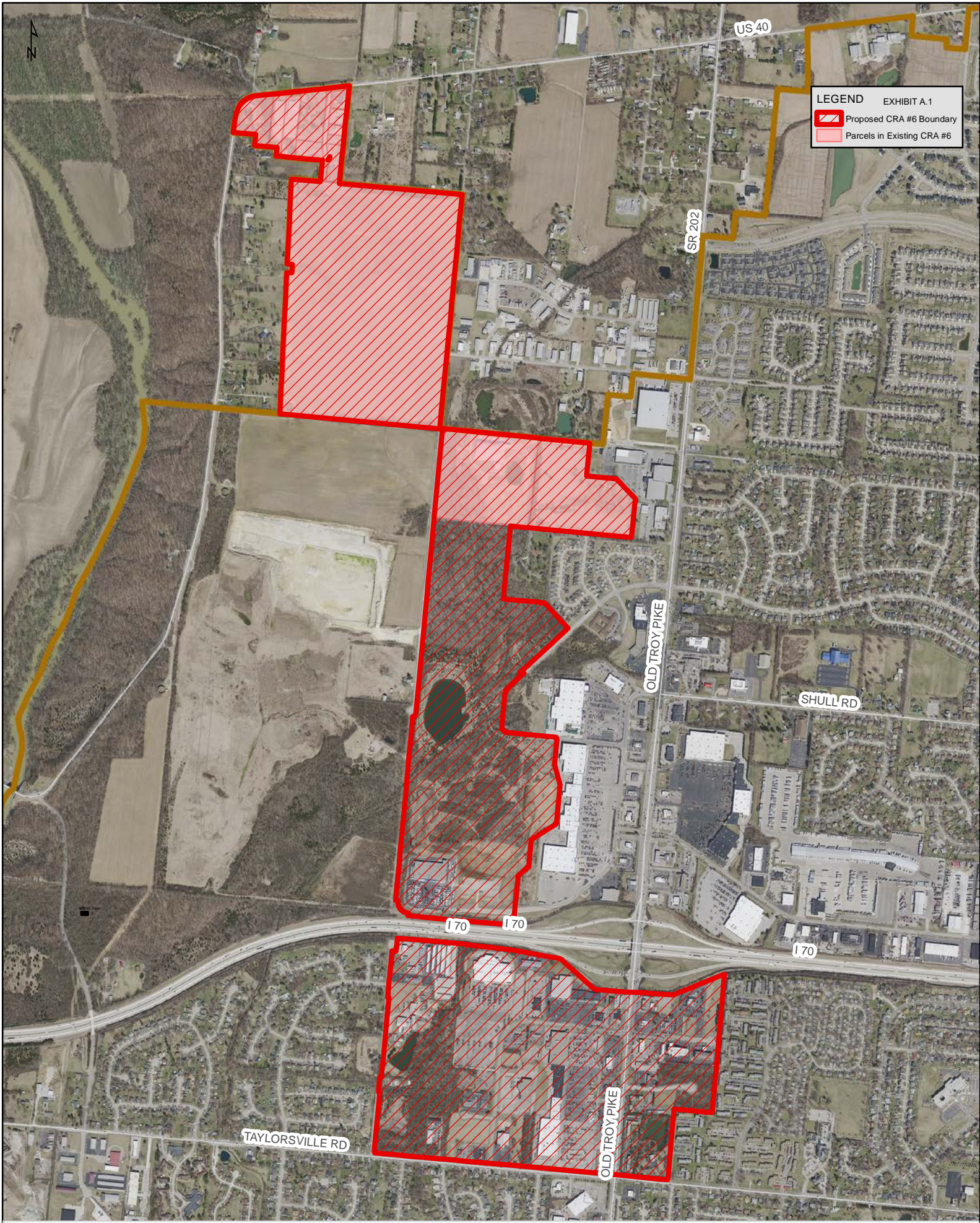
\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor



\_\_\_\_\_  
Date

\_\_\_\_\_  
Date





LEGEND EXHIBIT A.1

-  Proposed CRA #6 Boundary
-  Parcels in Existing CRA #6





## EXHIBIT A.2

CRA #6 Parcels Additions			
Parcel Number	Parcel Location	Owner Name	Zoning Class
P70 04005 0069	7777 Waynetowne Blvd.	Saint Francis Humane Society Inc.	PC
P70 04005 0066	7841 Old Troy Pk.	Prime Huber LLC	PC
P70 04005 0026	7638 Wildcat Rd.	Joshua Adams	I-1
P70 51307 0005	5221 Waynetowne Ct.	Interesting Development LLC	PC
P70 51307 0006	5221 Waynetowne Ct.	Interesting Development LLC	PC
P70 51307 0007	5221 Waynetowne Ct.	Interesting Development LLC	PC
P70 51307 0002	5211 Waynetowne Ct.	HHED LLC	PC
P70 51307 0003	5211 Waynetowne Ct.	HHED LLC	PC
P70 51307 0004	5221 Waynetowne Ct.	Huber Heights Ohio Building I LLC	PC
P70 04005 0126	5227 Taylorsville Rd.	Penn Station Realty LTD	PC
P70 04005 0065	5239 Taylorsville Rd.	Barkley Holdings LLC	PC
P70 04005 0136	7631 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0135	7747 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0134	7777 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0056	7605 Old Troy Pk.	John R Oettinger TR	PC
P70 04005 0140	7611 Old Troy Pk.	Huber Heights ABG LLC	PC
P70 04005 0141	7609 Old Troy Pk.	John R Oettinger TR	PC
P70 04005 0015	7578-7608 Old Troy Pk.	HF 2 Sub LLC	R-6
P70 04005 0003	7851 Old Troy Pk.	R A Corp	PC
P70 04005 0004	7888 Old Troy Pk.	Giant Dayton LLC	B-3
P70 04005 0082	5571 Merily Way	Roosters Real Estate LLC	B-3
P70 04005 0081	5571 Merily Way	Roosters Real Estate LLC	B-3
P70 04005 0132	5611 Merily Way	Texas Roadhouse of Huber Heights LLC	PC
P70 04005 0128	5612 Merily Way	Aashirvad LLC	B-3
P70 04005 0046	5588 Merily Way	Laxmi Hospitality LLC	B-3
P70 04005 0079	5570 Merily Way	Beavbux LLC	B-3
P70 04006 0002	5343 Kellenburger Rd.	David C Studebaker	A
P70 01924 0003	Charlesgate Rd.	TJH Holdings LLC	PR
P70 02025 0012	8101 Old Troy Pk.	City of Huber Heights	PC
P70 02025 0010	8001 Old Troy Pk.	Store Master Funding X LLC	PC
P70 02025 0011	8101 Old Troy Pk.	Store Master Funding X LLC	PC
P70 04005 0092	7886 Wildcat Rd.	Gump Timi S DBA	I-1
P70 04005 0089	7888 Wildcate Rd.	SS Huber Heights LLC	PI
P70 04005 0067	7778 Wildcat Rd.	Huber Heights Masonic Temple Co.	PP
P70 04005 0124	7888 Wildcat Rd.	SS Huber Heights LLC	PI
P70 04005 0125	7888 Wildcat Rd.	SS Huber Heights LLC	PI
P70 04005 0022	7740 Wildcat Rd.	Emma L Hart TR	PC
P70 04005 0057	Wildcat Rd.	City of Huber Heights	I-1
P70 01922 0001	Middleton Ct.	TJH Holdings LLC	I-1
P70 04005 0055	5201 Taylorsville Rd.	Murat A Shamshidinov	PC
P70 04005 0098	5205 Taylorsville Rd.	Jacquelyn R Koogler TR ETAL 5	PC
P70 04005 0118	5229 Taylorsville Rd.	Keith Huelskamp ETAL 3	PC
P70 02026 0002	5151 Waynetowne Ct.	Jacquelyn R Koogler TR ETAL 5	PC
P70 51307 0010	5211 Waynetowne Ct.	Waynetowne Professional Suites	PC
P70 04005 0097	7737 Waynetowne Blvd.	EPT Neneteen Inc	PC

P70 00818 0003	7761 Old Country Ct.	Ram K Shree Inc	PC
P70 00818 0002	7737 Waynetowne Blvd.	EPT Neneteen Inc	PC
P70 00818 0001	7765 Old Country Ct.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0072	7801 Waynetowne Blvd.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0073	7875 Waynetowne Blvd.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0121	7760 Waynetowne Blvd.	Allenmarie LLC	PC
P70 04005 0104	7764 Waynetowne Blvd.	Jason Rodgers	PC
P70 04005 0100	7650 Waynetowne Blvd.	Larkspur Huber Heights LLC	PC
P70 04005 0138	7601 Old Troy Pk.	Fifth Third Bank	PC
P70 04005 0085	7607 Old Troy Pk.	MHH LLC	PC
P70 04005 0088	7757 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC
P70 04005 0064	5561 Merily Way	KMS1 Investments LTD	B-3
P70 04005 0059	5562 Merily Way	McDonald's Real Estate Co	B-3
P70 01926 0002	7720 Old Troy Pk.	JSR Huber Heights LLC	PC
P70 01926 0001	7690 Old Troy Pk.	Huntington National Bank	B-3
P70 04005 0043	5550 Huber Rd.	HF 2 Sub LLC	B-3



AI-7838

**New Business     H.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Community Reinvestment Area (CRA) #7 - Modification

**Submitted By:** Bryan Chodkowski

**Department:** Economic Development

**Council Committee Review?:** Council     **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

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

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

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**Agenda Item Description or Legislation Title**

A Resolution To Modify Community Reinvestment Area #7 By Removing Certain Properties From Community Reinvestment Area #7.  
(first reading)

**Purpose and Background**

This legislation is the first of two pieces of legislation to support development at the northeast corner of Old Troy Pike and Taylorsville Road. As Council was previously briefed, this development partnership facilitates the necessary resources to fund traffic improvements from Taylorsville Road north to I-70. These improvements are designed to increase traffic flow and reduce traffic congestion.

This legislation removes several disjointed parcels in and around the development site from Community Reinvestment Area #7. Separate legislation extending Community Reinvestment Area #6 over all parcels in and around the development site for continuity of benefit is companion to this legislation.

Additionally, this legislation removes the original Marian Meadows property from Community Reinvestment Area #7. Future legislation establishing a new Post-94 Community Reinvestment Area will be presented to City Council once a meaningful redevelopment investment has committed to this site. This is necessary to ensure the accurate and uniform incentive application and management.

---

**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.1  
Exhibit A.2



CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

TO MODIFY COMMUNITY REINVESTMENT AREA #7 BY REMOVING CERTAIN  
PROPERTIES FROM COMMUNITY REINVESTMENT AREA #7.

WHEREAS, Community Reinvestment Area (CRA) #7 was created on June 20, 1994 by  
Resolution No. 94-R-1453 which included a definition of the area encompassed by CRA #7; and

WHEREAS, the City has received no applications for CRA exemption, has no pending  
applications for CRA exemption, and has not received any inquiry or notice of intent to make use  
of CRA exemptions from any owners of the property described on Exhibits A.1, A.2, and A.3.

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

Section 1. After due deliberation and consideration by the City Council for the City of Huber  
Heights, it is determined that the interests of the City are best served by the removal from CRA  
#7 of certain pieces of real estate as more fully described on Exhibits A.1, A.2, and A.3 as  
attached. In accordance with Ohio Revised Code Section 3735.661, such removal of real estate  
from CRA #7 shall not constitute an amendment to CRA #7. The City Manager is hereby  
authorized to take whatever action is necessary to implement this legislation.

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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

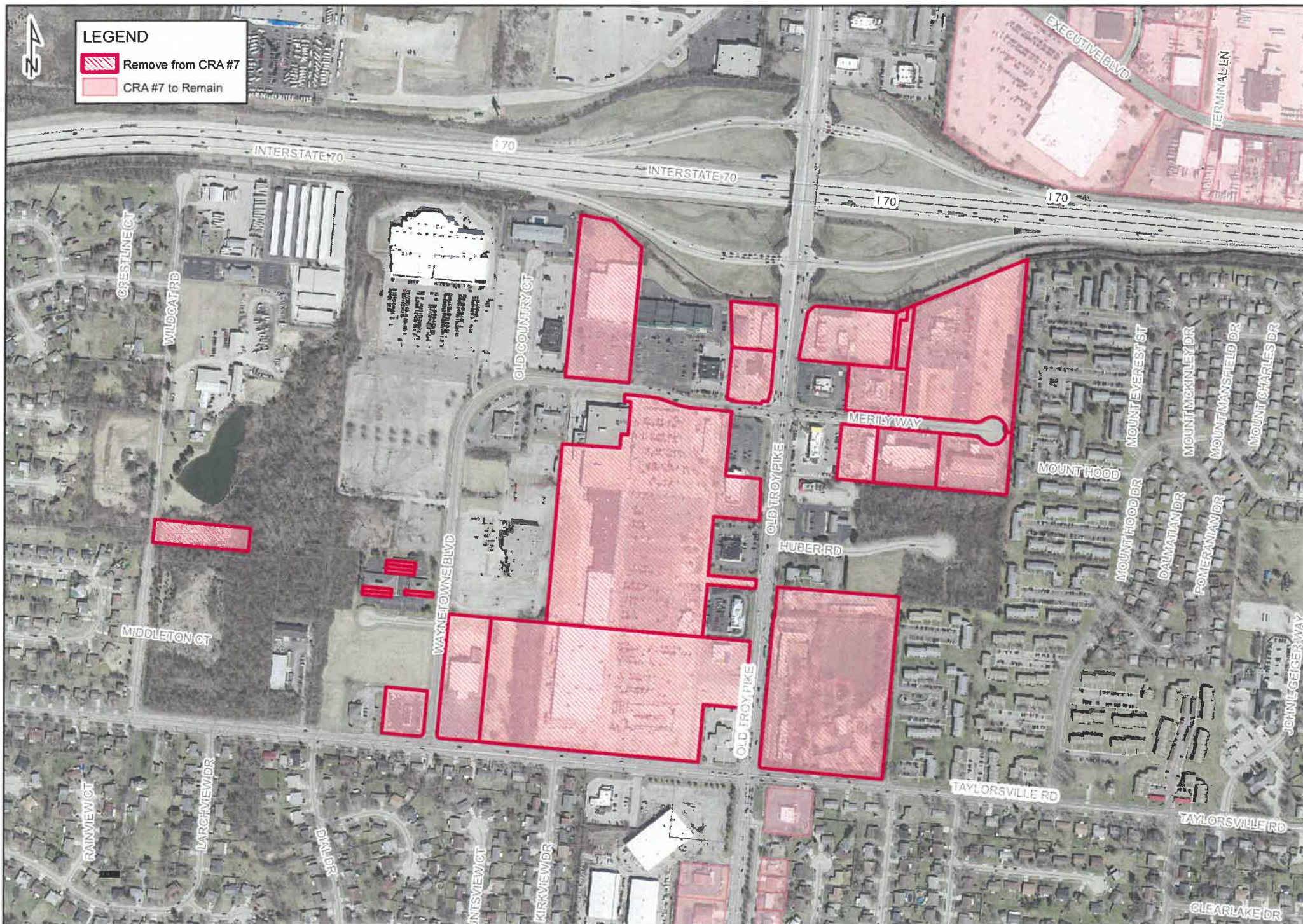
\_\_\_\_\_  
Date





# LEGEND

-  Remove from CRA #7
-  CRA #7 to Remain



CITY OF HUBER HEIGHTS, OHIO

Exhibit A.1

Date: 7/20/2021





## EXHIBIT A.3

CRA #7 Parcels to Remove				
Parcel Number	Parcel Location	Owner Name	Zoning Class	CRA No.
P70 04005 0069	7777 Waynetowne Blvd.	Saint Francis Humane Society Inc.	PC	7
P70 04005 0066	7841 Old Troy Pk.	Prime Huber LLC	PC	7
P70 04005 0026	7638 Wildcat Rd.	Joshua Adams	I-1	7
P70 51307 0005	5221 Waynetowne Ct.	Interesting Development LLC	PC	7
P70 51307 0006	5221 Waynetowne Ct.	Interesting Development LLC	PC	7
P70 51307 0007	5221 Waynetowne Ct.	Interesting Development LLC	PC	7
P70 51307 0002	5211 Waynetowne Ct.	HHED LLC	PC	7
P70 51307 0003	5211 Waynetowne Ct.	HHED LLC	PC	7
P70 51307 0004	5221 Waynetowne Ct.	Huber Heights Ohio Building I LLC	PC	7
P70 04005 0126	5227 Taylorsville Rd.	Penn Station Realty LTD	PC	7
P70 04005 0065	5239 Taylorsville Rd.	Barkley Holdings LLC	PC	7
P70 04005 0136	7631 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC	7
P70 04005 0135	7747 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC	7
P70 04005 0134	7777 Old Troy Pk.	Waynetowne Investments J LLC ETAL 3	PC	7
P70 04005 0056	7605 Old Troy Pk.	John R Oettinger TR	PC	7
P70 04005 0140	7611 Old Troy Pk.	Huber Heights ABG LLC	PC	7
P70 04005 0141	7609 Old Troy Pk.	John R Oettinger TR	PC	7
P70 04005 0015	7578-7608 Old Troy Pk.	HF 2 Sub LLC	R-6	7
P70 04005 0003	7851 Old Troy Pk.	R A Corp	PC	7
P70 04005 0004	7888 Old Troy Pk.	Giant Dayton LLC	B-3	7
P70 04005 0082	5571 Merily Way	Roosters Real Estate LLC	B-3	7
P70 04005 0081	5571 Merily Way	Roosters Real Estate LLC	B-3	7
P70 04005 0132	5611 Merily Way	Texas Roadhouse of Huber Heights LLC	PC	7
P70 04005 0128	5612 Merily Way	Aashirvad LLC	B-3	7
P70 04005 0046	5588 Merily Way	Laxmi Hospitality LLC	B-3	7
P70 04005 0079	5570 Merily Way	Beavbux LLC	B-3	7
P70 03912 0094	6121 Brandt Pk.	Fitzgerald Chace LLC	B-3	7
P70 03912 0106	6139 Brandt Pk.	City of Huber Heights	B-3	7
P70 03912 0102	6185 Brandt Pk.	City of Huber Heights	B-3	7

AI-7825

New Business I.

**City Council Meeting**

**City Manager**

**Meeting Date:** 09/13/2021

Issuance of Notes - Property Acquisition - City Administrative Offices - \$1,740,000

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

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

**Date(s) of Committee Review:** 09/07/2021

**Audio-Visual Needs:** None

**Emergency Legislation?:** Yes

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

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**Agenda Item Description or Legislation Title**

An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$1,740,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Certain Real Property Which Will Be Used As A Site For City Administrative Offices, And Providing For General Site Preparation Thereof And Improvements Thereto, Together With All Necessary Appurtenances Thereto, And Declaring An Emergency.  
(first reading)

**Purpose and Background**

The attached ordinance will allow the City to issue one-year notes in the amount of \$1,740,000 for the renewal of the notes issued in 2020 for the cost of the property acquisition which will be used as a site for City administrative offices. The estimated tax-exempt rate for this note is 0.50%. City Staff is requesting this ordinance be passed as emergency legislation, so the notes can be sold with two additional notes and the proceeds received prior to the maturity of the notes issued in 2020.

---

**Fiscal Impact**

**Source of Funds:** Notes

**Cost:** \$1,740,000

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

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

**Financial Implications:**

---

**Attachments**

Engagement Letter

Fiscal Officer Certificate

Ordinance

---





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2000 Huntington Center  
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August 20, 2021

**VIA E-MAIL**

Scott P. Falkowski  
Interim City Manager  
City of Huber Heights, Ohio  
6131 Taylorsville Road  
Huber Heights, Ohio 45424

**Re: City of Huber Heights, Ohio  
(Not to Exceed) \$3,543,000 Various Purpose Notes, Series 2021**

Dear Scott:

We are pleased that the City of Huber Heights, Ohio (the "*City*") has requested Squire Patton Boggs (US) LLP (the "*Firm*") to serve as the City's bond counsel in connection with the issuance of the referenced unvoted, general obligation bond anticipation notes (the "*Notes*").

The Firm's services will include those customarily provided by bond counsel in connection with issues such as the Notes, including the rendering of our legal opinion (the "*Bond Opinion*"), provided that the proceedings for the issuance of the Notes have been completed to our satisfaction. The Bond Opinion will address the legality, validity and binding effect of the Notes, the source of payment and security for the Notes, the excludability of interest on the Notes from gross income for federal income tax purposes, and certain other tax aspects of the Notes under federal law and under the laws of the State of Ohio. The Firm will address the Bond Opinion to the City and to the original purchaser and will deliver it on the date that the City delivers the Notes to the original purchaser in exchange for their purchase price. For those legal services, the Firm shall be paid just and reasonable compensation in an amount not expected to exceed \$12,750, and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services.

As the City's bond counsel, the Firm represents the City. The City is the Firm's client, and an attorney-client relationship will exist between the Firm and the City. We assume that all other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that, in this transaction, we represent only the City, that we are not counsel to any other party,

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Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities.

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Scott P. Falkowski  
August 20, 2021  
Page 2

and that we are not acting as an intermediary among the parties. Our representation of the City will not, however, affect our responsibility to render an objective Bond Opinion.

The City's proposed issuance of the Notes will involve an original purchaser and perhaps other parties. The Firm conducts a national practice in the area of public finance that involves the representation of issuers, underwriters and other parties in the issuance of governmental debt obligations. In addition, the Firm conducts a national and international corporate law practice that includes the representation of financial institutions and other businesses in transactions, litigation and other matters. As a result of the extent and diversity of that practice, the Firm may currently represent or may have represented the original purchaser of the Notes or other parties involved in the issuance of the Notes in matters unrelated to the City or its issuance of the Notes. The Firm may also commence such representations during the time it is serving the City as bond counsel for the Notes. Considering the lack of relationship that such other matters have to the City or to its issuance of the Notes, the Firm does not expect any such other representations to conflict with its fulfillment of its professional obligations to the City as bond counsel for the Notes. We request that the City, by signing and returning a copy of this letter, acknowledge and consent to the Firm's serving the City as bond counsel for the issuance of the Notes though the Firm serves, may have served or may serve other parties to that issuance in other, unrelated matters.

The Firm appreciates the opportunity to represent the City in this transaction. Please signify that the City desires for the Firm to proceed with this engagement as described in this letter by signing a copy of this letter and returning it to us. Please retain the original for the City's files.

Very truly yours,

*Christopher J. Franzmann*

Christopher J. Franzmann

CJF/pf

**Engagement Letter Accepted:**

**CITY OF HUBER HEIGHTS, OHIO**

By: 

Printed: Scott P. Falkowski

Title: Interim City Manager

Dated: 8/24/21

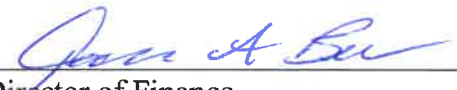
**SUPPLEMENTAL  
FISCAL OFFICER'S CERTIFICATE**

To the City Council of the City of Huber Heights, Ohio:

As fiscal officer of the City of Huber Heights, Ohio, and supplementing the fiscal officer's certificate of October 20, 2020, I certify in connection with your proposed issuance of notes in the maximum principal amount of \$1,740,000 (the "*Notes*"), to be issued in anticipation of the issuance of bonds (the "*Bonds*") for the purpose of paying the costs of acquiring certain real property which will be used as a site for City administrative offices, and providing for general site preparation thereof and improvements thereto, together with all necessary appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is thirty (30) years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is November 18, 2040.

Dated: Sept. 1, 2021

  
\_\_\_\_\_  
Director of Finance  
City of Huber Heights, Ohio

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2021-O-

PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,740,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING CERTAIN REAL PROPERTY WHICH WILL BE USED AS A SITE FOR CITY ADMINISTRATIVE OFFICES, AND PROVIDING FOR GENERAL SITE PREPARATION THEREOF AND IMPROVEMENTS THERETO, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2020-O-2448 passed October 26, 2020, notes in anticipation of bonds in the principal amount of \$1,740,000, dated November 18, 2020 (the “*Outstanding Notes*”), were issued for the purpose stated in Section 1, to mature on November 17, 2021; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds available to the City; and

WHEREAS, this City Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 1, the estimated maximum maturity of the Bonds described in Section 1 and the maximum maturity of the Notes described in Section 3 to be issued in anticipation of the Bonds; and

WHEREAS, the Director of Finance has certified to this City Council that the estimated life or period of usefulness of the Improvement described in Section 1 is at least five (5) years, the estimated maximum maturity of the Bonds described in Section 1 is thirty (30) years, and that the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is November 18, 2040.

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

Section 1. It is necessary to issue bonds of this City in the maximum principal amount of \$1,740,000 (the “*Bonds*”) for the purpose of paying the costs of acquiring certain real property which will be used as a site for City administrative offices, and providing for general site preparation thereof and improvements thereto, together with all necessary appurtenances thereto (the “*Improvement*”).

Section 2. The Bonds shall be dated approximately November 1, 2022, shall bear interest at the now estimated rate of 5.00% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty (20) annual principal installments on December 1 of each year and in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable shall be substantially equal. The first principal payment on the Bonds is estimated to be December 1, 2023.

Section 3. It is necessary to issue and this Council determines that notes in the maximum principal amount of \$1,740,000 (the “*Notes*”) shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 1 and to retire, together with other funds available to the City, the Outstanding Notes and to pay any financing costs. The principal amount of Notes to be issued (not to exceed the stated maximum amount) shall be determined by the Director of Finance in the certificate awarding the Notes in accordance with Section 6 of this Ordinance (the “*Certificate of Award*”) as the amount which, along with other available funds of the City, is necessary to provide for the retirement of the Outstanding Notes and to pay any financing costs. The Notes shall be dated the date of issuance and shall mature not more than one year following the date of issuance, *provided* that the Director of Finance shall establish the maturity date in the Certificate of Award. The Notes shall bear interest at a rate or rates not to exceed 5.00% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate or rates of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award in accordance with Section 6 of this Ordinance.

Section 4. The debt charges on the Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America as determined by the Director of Finance in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent, at the office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose or at the office of the Director of Finance if agreed to by the Director of Finance and the original purchaser (the "*Paying Agent*").

The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Note Registrar Agreement between the City and the Paying Agent, in substantially the form as is now on file with the Clerk of Council. The Note Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement, except to the extent paid or reimbursed by the original purchaser in accordance with the Certificate of Award, from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Section 5. The Notes shall be signed by the City Manager and Director of Finance, in the name of the City and in their official capacities; *provided* that one of those signatures may be a facsimile. The Notes shall be issued in minimum denominations of \$100,000 (and may be issued in denominations in such amounts in excess thereof as requested by the original purchaser and approved by the Director of Finance) and with numbers as requested by the original purchaser and approved by the Director of Finance. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Ohio Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

"*Book entry form*" or "*book entry system*" means a form or system under which (a) the ownership of beneficial interests in the Notes and the principal of and interest on the Notes may be transferred only through a book entry, and (b) a single physical Note certificate in fully registered form is issued by the City and payable only to a Depository or its nominee as registered owner, with the certificate deposited with and "immobilized" in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

"*Depository*" means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of and interest on the Notes, and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"*Participant*" means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (a) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (b) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (c) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the

Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (d) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

Section 6. The Notes shall be sold at not less than par plus accrued interest (if any) at private sale by the Director of Finance in accordance with law and the provisions of this Ordinance, the Certificate of Award and the Note Purchase Agreement. The Director of Finance shall sign the Certificate of Award referred to in Section 3 fixing the interest rate or rates which the Notes shall bear and evidencing that sale to the original purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price.

The Note Purchase Agreement between the City and the original purchaser and now on file with the Clerk of Council is approved, and the City Manager and the Director of Finance are authorized to sign and deliver, on behalf of the City, the Note Purchase Agreement with such changes that are not inconsistent with the provisions of this Ordinance, are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance. Any such changes to the Note Purchase Agreement are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance shall be evidenced conclusively by the signing of the Note Purchase Agreement by the City Manager and the Director of Finance.

The City Manager, the Director of Finance, the City Attorney, the Clerk of Council and other City officials, as appropriate, and any person serving in an interim or acting capacity for any such official, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The actions of the City Manager, the Director of Finance, the City Attorney, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Notes are hereby ratified and confirmed. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Ohio Revised Code.

Section 7. The proceeds from the sale of the Notes received by the City (or withheld by the original purchaser or deposited with the Paying Agent, in each case on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. The Certificate of Award and the Note Purchase Agreement may authorize the original purchaser to (a) withhold certain proceeds from the sale of the Notes or (b) remit certain proceeds from the sale of the Notes to the Paying Agent, in each case to provide for the payment of certain financing costs on behalf of the City. If proceeds are remitted to the Paying Agent in accordance with this Section 7, the Paying Agent shall be authorized to create a fund in accordance with the Note Registrar Agreement for that purpose. Any portion of those proceeds received by the City (after payment of those financing costs) representing premium or accrued interest shall be paid into the Bond Retirement Fund.

Section 8. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Notes or the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and the laws of the State of Ohio and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Notes or the Bonds.

Section 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (the “Code”) or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Notes, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Notes, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the

proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes. The Director of Finance or any other officer of the City having responsibility for issuance of the Notes is specifically authorized to designate the Notes as “qualified tax-exempt obligations” if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure the exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes.

Section 11. The Clerk of Council is directed to promptly deliver a certified copy of this Ordinance to the County Auditors of Miami and Montgomery Counties, Ohio.

Section 12. The Director of Finance is authorized to request a rating for the Notes from Moody's Investors Service, Inc. or S&P Global Ratings, or both, as the Director of Finance determines is in the best interest of the City. The expenditure of the amounts necessary to secure any such ratings as well as to pay the other financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the Notes is hereby authorized and approved and the amounts necessary to pay those costs are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 13. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes and securities issued in renewal of the Notes and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. To the extent they are not paid or reimbursed pursuant to the Note Purchase Agreement and/or the Note Registrar Agreement, the Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 14. The services of Bradley Payne, LLC., as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Notes. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. To the extent they are not paid or reimbursed pursuant to the Note Purchase Agreement and/or the Note Registrar Agreement, the Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 15. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and

have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 16. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 17. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of the inhabitants of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to timely acquire the Improvement; therefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

#### **CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2021-O-\_\_\_\_\_ passed by the City Council of the City of Huber Heights, on \_\_\_\_\_, 2021.

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



AI-7826

**New Business**     **J.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Issuance of Notes - Property Acquisition - Governmental Facilities - \$1,803,000

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

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

**Date(s) of Committee Review:** 09/07/2021

**Audio-Visual Needs:** None

**Emergency Legislation?:** Yes

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

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**Agenda Item Description or Legislation Title**

An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$1,803,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Certain Real Property Which Will Be Used As A Site For One Or More Governmental Facilities, And Providing For General Site Preparation Thereof And Improvements Thereto, Together With All Necessary Appurtenances Thereto, And Declaring An Emergency.  
(first reading)

**Purpose and Background**

The attached ordinance will allow the City to issue one-year notes in the amount of \$1,803,000 for the renewal of the notes issued in 2020 for the cost of the property acquisition which will be used for governmental facilities. The estimated tax-exempt rate for this note is 0.50%. City Staff is requesting this ordinance be passed as emergency legislation, so the notes can be sold, with two additional notes, and the proceeds received prior to the maturity of the notes issued in 2020.

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**Fiscal Impact**

**Source of Funds:** Notes

**Cost:** \$1,803,000

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

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

**Financial Implications:**

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**Attachments**

Engagement Letter  
Fiscal Officer Certificate  
Ordinance

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2000 Huntington Center  
41 South High Street  
Columbus, Ohio 43215

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F +1 614 365 2499  
squirepattonboggs.com

Christopher J. Franzmann  
T +1 614 365 2737  
chris.franzmann@squirepb.com

August 20, 2021

**VIA E-MAIL**

Scott P. Falkowski  
Interim City Manager  
City of Huber Heights, Ohio  
6131 Taylorsville Road  
Huber Heights, Ohio 45424

**Re: City of Huber Heights, Ohio  
(Not to Exceed) \$3,543,000 Various Purpose Notes, Series 2021**

Dear Scott:

We are pleased that the City of Huber Heights, Ohio (the "*City*") has requested Squire Patton Boggs (US) LLP (the "*Firm*") to serve as the City's bond counsel in connection with the issuance of the referenced unvoted, general obligation bond anticipation notes (the "*Notes*").

The Firm's services will include those customarily provided by bond counsel in connection with issues such as the Notes, including the rendering of our legal opinion (the "*Bond Opinion*"), provided that the proceedings for the issuance of the Notes have been completed to our satisfaction. The Bond Opinion will address the legality, validity and binding effect of the Notes, the source of payment and security for the Notes, the excludability of interest on the Notes from gross income for federal income tax purposes, and certain other tax aspects of the Notes under federal law and under the laws of the State of Ohio. The Firm will address the Bond Opinion to the City and to the original purchaser and will deliver it on the date that the City delivers the Notes to the original purchaser in exchange for their purchase price. For those legal services, the Firm shall be paid just and reasonable compensation in an amount not expected to exceed \$12,750, and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services.

As the City's bond counsel, the Firm represents the City. The City is the Firm's client, and an attorney-client relationship will exist between the Firm and the City. We assume that all other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that, in this transaction, we represent only the City, that we are not counsel to any other party,

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Scott P. Falkowski  
August 20, 2021  
Page 2

and that we are not acting as an intermediary among the parties. Our representation of the City will not, however, affect our responsibility to render an objective Bond Opinion.

The City's proposed issuance of the Notes will involve an original purchaser and perhaps other parties. The Firm conducts a national practice in the area of public finance that involves the representation of issuers, underwriters and other parties in the issuance of governmental debt obligations. In addition, the Firm conducts a national and international corporate law practice that includes the representation of financial institutions and other businesses in transactions, litigation and other matters. As a result of the extent and diversity of that practice, the Firm may currently represent or may have represented the original purchaser of the Notes or other parties involved in the issuance of the Notes in matters unrelated to the City or its issuance of the Notes. The Firm may also commence such representations during the time it is serving the City as bond counsel for the Notes. Considering the lack of relationship that such other matters have to the City or to its issuance of the Notes, the Firm does not expect any such other representations to conflict with its fulfillment of its professional obligations to the City as bond counsel for the Notes. We request that the City, by signing and returning a copy of this letter, acknowledge and consent to the Firm's serving the City as bond counsel for the issuance of the Notes though the Firm serves, may have served or may serve other parties to that issuance in other, unrelated matters.

The Firm appreciates the opportunity to represent the City in this transaction. Please signify that the City desires for the Firm to proceed with this engagement as described in this letter by signing a copy of this letter and returning it to us. Please retain the original for the City's files.

Very truly yours,

*Christopher J. Franzmann*

Christopher J. Franzmann

CJF/pf

**Engagement Letter Accepted:**

**CITY OF HUBER HEIGHTS, OHIO**

By: 

Printed: Scott P. Falkowski

Title: Interim City Manager

Dated: 8/24/21


**SUPPLEMENTAL  
FISCAL OFFICER'S CERTIFICATE**

To the City Council of the City of Huber Heights, Ohio:

As fiscal officer of the City of Huber Heights, Ohio, and supplementing the fiscal officer's certificate of October 20, 2020, I certify in connection with your proposed issuance of notes in the maximum principal amount of \$1,803,000 (the "*Notes*"), to be issued in anticipation of the issuance of bonds (the "*Bonds*") for the purpose of paying the costs of acquiring certain real property which will be used as a site for one or more governmental facilities, and providing for general site preparation thereof and improvements thereto, together with all necessary appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is thirty (30) years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is November 18, 2040.

Dated: Sept. 1, 2021

  
\_\_\_\_\_  
Director of Finance  
City of Huber Heights, Ohio

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2021-O-

PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,803,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING CERTAIN REAL PROPERTY WHICH WILL BE USED AS A SITE FOR ONE OR MORE GOVERNMENTAL FACILITIES, AND PROVIDING FOR GENERAL SITE PREPARATION THEREOF AND IMPROVEMENTS THERETO, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2020-O-2449 passed October 26, 2020, notes in anticipation of bonds in the principal amount of \$1,803,000, dated November 18, 2020 (the “*Outstanding Notes*”), were issued for the purpose stated in Section 1, to mature on November 17, 2021; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds available to the City; and

WHEREAS, this City Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 1, the estimated maximum maturity of the Bonds described in Section 1 and the maximum maturity of the Notes described in Section 3 to be issued in anticipation of the Bonds; and

WHEREAS, the Director of Finance has certified to this City Council that the estimated life or period of usefulness of the Improvement described in Section 1 is at least five (5) years, the estimated maximum maturity of the Bonds described in Section 1 is thirty (30) years, and that the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is November 18, 2040.

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

Section 1. It is necessary to issue bonds of this City in the maximum principal amount of \$1,803,000 (the “*Bonds*”) for the purpose of paying the costs of acquiring certain real property which will be used as a site for one or more governmental facilities, and providing for general site preparation thereof and improvements thereto, together with all necessary appurtenances thereto (the “*Improvement*”).

Section 2. The Bonds shall be dated approximately November 1, 2022, shall bear interest at the now estimated rate of 5.00% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty (20) annual principal installments on December 1 of each year and in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable shall be substantially equal. The first principal payment on the Bonds is estimated to be December 1, 2023.

Section 3. It is necessary to issue and this Council determines that notes in the maximum principal amount of \$1,803,000 (the “*Notes*”) shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 1 and to retire, together with other funds available to the City, the Outstanding Notes and to pay any financing costs. The principal amount of Notes to be issued (not to exceed the stated maximum amount) shall be determined by the Director of Finance in the certificate awarding the Notes in accordance with Section 6 of this Ordinance (the “*Certificate of Award*”) as the amount which, along with other available funds of the City, is necessary to provide for the retirement of the Outstanding Notes and to pay any financing costs. The Notes shall be dated the date of issuance and shall mature not more than one year following the date of issuance, *provided* that the Director of Finance shall establish the maturity date in the Certificate of Award. The Notes shall bear interest at a rate or rates not to exceed 5.00% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate or rates of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award in accordance with Section 6 of this Ordinance.

Section 4. The debt charges on the Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America as determined by the Director of Finance in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent, at the office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose or at the office of the Director of Finance if agreed to by the Director of Finance and the original purchaser (the "*Paying Agent*").

The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Note Registrar Agreement between the City and the Paying Agent, in substantially the form as is now on file with the Clerk of Council. The Note Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement, except to the extent paid or reimbursed by the original purchaser in accordance with the Certificate of Award, from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Section 5. The Notes shall be signed by the City Manager and Director of Finance, in the name of the City and in their official capacities; *provided* that one of those signatures may be a facsimile. The Notes shall be issued in minimum denominations of \$100,000 (and may be issued in denominations in such amounts in excess thereof as requested by the original purchaser and approved by the Director of Finance) and with numbers as requested by the original purchaser and approved by the Director of Finance. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Ohio Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

"*Book entry form*" or "*book entry system*" means a form or system under which (a) the ownership of beneficial interests in the Notes and the principal of and interest on the Notes may be transferred only through a book entry, and (b) a single physical Note certificate in fully registered form is issued by the City and payable only to a Depository or its nominee as registered owner, with the certificate deposited with and "immobilized" in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

"*Depository*" means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of and interest on the Notes, and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"*Participant*" means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (a) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (b) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (c) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the

Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (d) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

Section 6. The Notes shall be sold at not less than par plus accrued interest (if any) at private sale by the Director of Finance in accordance with law and the provisions of this Ordinance, the Certificate of Award and the Note Purchase Agreement. The Director of Finance shall sign the Certificate of Award referred to in Section 3 fixing the interest rate or rates which the Notes shall bear and evidencing that sale to the original purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price.

The Note Purchase Agreement between the City and the original purchaser and now on file with the Clerk of Council is approved, and the City Manager and the Director of Finance are authorized to sign and deliver, on behalf of the City, the Note Purchase Agreement with such changes that are not inconsistent with the provisions of this Ordinance, are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance. Any such changes to the Note Purchase Agreement are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance shall be evidenced conclusively by the signing of the Note Purchase Agreement by the City Manager and the Director of Finance.

The City Manager, the Director of Finance, the City Attorney, the Clerk of Council and other City officials, as appropriate, and any person serving in an interim or acting capacity for any such official, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The actions of the City Manager, the Director of Finance, the City Attorney, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Notes are hereby ratified and confirmed. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Ohio Revised Code.

Section 7. The proceeds from the sale of the Notes received by the City (or withheld by the original purchaser or deposited with the Paying Agent, in each case on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. The Certificate of Award and the Note Purchase Agreement may authorize the original purchaser to (a) withhold certain proceeds from the sale of the Notes or (b) remit certain proceeds from the sale of the Notes to the Paying Agent, in each case to provide for the payment of certain financing costs on behalf of the City. If proceeds are remitted to the Paying Agent in accordance with this Section 7, the Paying Agent shall be authorized to create a fund in accordance with the Note Registrar Agreement for that purpose. Any portion of those proceeds received by the City (after payment of those financing costs) representing premium or accrued interest shall be paid into the Bond Retirement Fund.

Section 8. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Notes or the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and the laws of the State of Ohio and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Notes or the Bonds.

Section 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (the “Code”) or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Notes, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Notes, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the



proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes. The Director of Finance or any other officer of the City having responsibility for issuance of the Notes is specifically authorized to designate the Notes as “qualified tax-exempt obligations” if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure the exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes.

Section 11. The Clerk of Council is directed to promptly deliver a certified copy of this Ordinance to the County Auditors of Miami and Montgomery Counties, Ohio.

Section 12. The Director of Finance is authorized to request a rating for the Notes from Moody’s Investors Service, Inc. or S&P Global Ratings, or both, as the Director of Finance determines is in the best interest of the City. The expenditure of the amounts necessary to secure any such ratings as well as to pay the other financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the Notes is hereby authorized and approved and the amounts necessary to pay those costs are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 13. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes and securities issued in renewal of the Notes and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. To the extent they are not paid or reimbursed pursuant to the Note Purchase Agreement and/or the Note Registrar Agreement, the Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 14. The services of Bradley Payne, LLC., as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Notes. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. To the extent they are not paid or reimbursed pursuant to the Note Purchase Agreement and/or the Note Registrar Agreement, the Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 15. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and

have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 16. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 17. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of the inhabitants of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to timely acquire the Improvement; therefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2021-O-\_\_\_\_\_ passed by the City Council of the City of Huber Heights, on \_\_\_\_\_, 2021.

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

AI-7827

New Business K.  
City Manager

**City Council Meeting**

**Meeting Date:** 09/13/2021

Issuance of Notes - Property Acquisition - Economic Development - \$4,262,000

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

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

**Date(s) of Committee Review:** 09/07/2021

**Audio-Visual Needs:** None

**Emergency Legislation?:** Yes

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

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**Agenda Item Description or Legislation Title**

An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$4,262,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Approximately 19.5 Acres Of Real Property Near The Intersection Of Brandt Pike And Fishburg Road And Providing For The Site Preparation Thereof, All In Support Of Economic Development And Job Creation Within The City, And Declaring An Emergency.  
(first reading)

**Purpose and Background**

The attached ordinance will allow the City to issue one-year notes in the amount of \$4,262,000 for the renewal of the notes issued in 2020 for the cost of the acquisition of properties which will be used for various economic development needs. The estimated taxable rate for this note is 0.75%. City Staff is requesting this ordinance be passed as emergency legislation, so the notes can be sold with two additional notes and proceeds received prior to the maturity of the notes issued in 2020.

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**Fiscal Impact**

**Source of Funds:** Notes

**Cost:** \$4,262,000

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

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

**Financial Implications:**

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**Attachments**

Engagement Letter  
Ordinance

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Squire Patton Boggs (US) LLP  
2000 Huntington Center  
41 South High Street  
Columbus, Ohio 43215

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F +1 614 365 2499  
squirepattonboggs.com

Christopher J. Franzmann  
T +1 614 365 2737  
chris.franzmann@squirepb.com

August 20, 2021

**VIA E-MAIL**

Scott P. Falkowski  
Interim City Manager  
City of Huber Heights, Ohio  
6131 Taylorsville Road  
Huber Heights, Ohio 45424

**Re: City of Huber Heights, Ohio  
(Not to Exceed) \$4,262,000 Special Obligation Nontax Revenue Notes, Series 2021B  
(Federally Taxable)**

Dear Scott:

We are pleased that the City of Huber Heights, Ohio (the "*City*") has requested Squire Patton Boggs (US) LLP (the "*Firm*") to serve as the City's bond counsel in connection with the issuance of the referenced unvoted, special obligation bond anticipation notes (the "*Notes*").

The Firm's services will include those customarily provided by bond counsel in connection with issues such as the Notes, including the rendering of our legal opinion (the "*Bond Opinion*"), provided that the proceedings for the issuance of the Notes have been completed to our satisfaction. The Bond Opinion will address the legality, validity and binding effect of the Notes, the source of payment and security for the Notes, and certain tax aspects of the Notes under the laws of the State of Ohio. The Firm will address the Bond Opinion to the City and to the original purchaser and will deliver it on the date that the City delivers the Notes to the original purchaser in exchange for their purchase price. For those legal services, the Firm shall be paid just and reasonable compensation in an amount not expected to exceed \$13,250, and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services.

As the City's bond counsel, the Firm represents the City. The City is the Firm's client, and an attorney-client relationship will exist between the Firm and the City. We assume that all other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that, in this transaction, we represent only the City, that we are not counsel to any other party,

45 Offices in 20 Countries

Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities.

Please visit [squirepattonboggs.com](http://squirepattonboggs.com) for more information.

Scott P. Falkowski  
August 20, 2021  
Page 2

and that we are not acting as an intermediary among the parties. Our representation of the City will not, however, affect our responsibility to render an objective Bond Opinion.

The City's proposed issuance of the Notes will involve an original purchaser and perhaps other parties. The Firm conducts a national practice in the area of public finance that involves the representation of issuers, underwriters and other parties in the issuance of governmental debt obligations. In addition, the Firm conducts a national and international corporate law practice that includes the representation of financial institutions and other businesses in transactions, litigation and other matters. As a result of the extent and diversity of that practice, the Firm may currently represent or may have represented the original purchaser of the Notes or other parties involved in the issuance of the Notes in matters unrelated to the City or its issuance of the Notes. The Firm may also commence such representations during the time it is serving the City as bond counsel for the Notes. Considering the lack of relationship that such other matters have to the City or to its issuance of the Notes, the Firm does not expect any such other representations to conflict with its fulfillment of its professional obligations to the City as bond counsel for the Notes. We request that the City, by signing and returning a copy of this letter, acknowledge and consent to the Firm's serving the City as bond counsel for the issuance of the Notes though the Firm serves, may have served or may serve other parties to that issuance in other, unrelated matters.

The Firm appreciates the opportunity to represent the City in this transaction. Please signify that the City desires for the Firm to proceed with this engagement as described in this letter by signing a copy of this letter and returning it to us. Please retain the original for the City's files.

Very truly yours,

*Christopher J. Franzmann*

Christopher J. Franzmann

CJF/pf

**Engagement Letter Accepted:**

**CITY OF HUBER HEIGHTS, OHIO**

By: 

Printed: Scott P. Falkowski

Title: Interim City Manager

Dated: 8/24/21

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2021-O-

PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF \$4,262,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING APPROXIMATELY 19.5 ACRES OF REAL PROPERTY NEAR THE INTERSECTION OF BRANDT PIKE AND FISHBURG ROAD AND PROVIDING FOR THE SITE PREPARATION THEREOF, ALL IN SUPPORT OF ECONOMIC DEVELOPMENT AND JOB CREATION WITHIN THE CITY, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Huber Heights, Ohio (the “City”) is authorized by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII, Ohio Constitution, and Chapter 165, Ohio Revised Code (the “Act”), among other things, to issue bonds or notes to acquire, construct, equip, furnish, or improve a “project” as defined in Section 165.01, Ohio Revised Code, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State of Ohio; and

WHEREAS, to facilitate the creation of jobs and employment opportunities and improving the economic welfare of the people of the City and of the State of Ohio, the City has determined to issue the Notes (described below) to acquire approximately 19.5 acres of real property near the intersection of Brandt Pike and Fishburg Road and provide for the site preparation thereof (the “Project”); and

WHEREAS, pursuant to Ordinance No. 2020-O-2450 passed October 26, 2020, notes in anticipation of bonds in the principal amount of \$4,262,000, dated November 18, 2020 (the “Outstanding Notes”), were issued for the purpose described in Section 2, to mature on November 17, 2021; and

WHEREAS, this City Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 4 and other funds available to the City.

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

Section 1. This City Council hereby determines that the Project is a “project” as defined in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution; that the utilization of the Project is in furtherance of the purposes of the Act and will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and that the amount necessary to finance the Project will require the issuance, sale and delivery of the Notes (as defined below), which Notes shall be issued in anticipation of the Bonds (as defined below), and which Notes shall be payable and secured as provided herein.

Section 2. It is necessary to issue bonds of this City in the maximum principal amount of \$4,262,000 (the “Bonds”) for the purpose of paying the costs of acquiring approximately 19.5 acres of real property near the intersection of Brandt Pike and Fishburg Road and providing for the site preparation thereof, all in support of economic development and job creation within the City.

Section 3. The Bonds shall be dated approximately November 1, 2022, shall bear interest at the now estimated rate of 5.00% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty (20) annual principal installments on December 1 of each year and in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable shall be substantially equal. The first principal payment on the Bonds is estimated to be December 1, 2023.

Section 4. It is necessary to issue and this Council determines that notes in the maximum principal amount of \$4,262,000 (the “Notes”) shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 2 and to pay the costs of the Project and any financing costs. The principal amount of Notes to be issued (not to exceed the stated

maximum amount) shall be determined by the Director of Finance in the certificate awarding the Notes in accordance with Section 7 of this Ordinance (the "*Certificate of Award*") as the amount which is necessary to pay the costs of the Project and any financing costs. The Notes shall be dated the date of issuance and shall mature not more than one year following the date of issuance, *provided* that the Director of Finance shall establish the maturity date in the Certificate of Award. The Notes shall bear interest at a rate or rates not to exceed 5.00% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate or rates of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award in accordance with Section 7 of this Ordinance. The Notes shall be issued pursuant to the Act, the Charter of the City, this Ordinance and the Certificate of Award.

Section 5. The debt charges on the Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America as determined by the Director of Finance in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent, at the office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose or at the office of the Director of Finance if agreed to by the Director of Finance and the original purchaser (the "*Paying Agent*").

The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Note Registrar Agreement between the City and the Paying Agent, in substantially the form as is now on file with the Clerk of Council. The Note Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement, except to the extent paid or reimbursed by the original purchaser in accordance with the Certificate of Award, from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Section 6. The Notes shall be signed by the City Manager and Director of Finance, in the name of the City and in their official capacities, *provided* that one of those signatures may be a facsimile. The Notes shall be issued in minimum denominations of \$100,000 (and may be issued in denominations in such amounts in excess thereof as requested by the original purchaser and approved by the Director of Finance) and with numbers as requested by the original purchaser and approved by the Director of Finance. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Ohio Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

"*Book entry form*" or "*book entry system*" means a form or system under which (a) the ownership of beneficial interests in the Notes and the principal of and interest on the Notes may be transferred only through a book entry, and (b) a single physical Note certificate in fully registered form is issued by the City and payable only to a Depository or its nominee as registered owner, with the certificate deposited with and "immobilized" in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

"*Depository*" means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of and interest on the Notes, and to effect

transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

*“Participant”* means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (a) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (b) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (c) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (d) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

Section 7. The Notes shall be sold at not less than par plus accrued interest (if any) at private sale by the Director of Finance in accordance with law and the provisions of this Ordinance, the Certificate of Award and the Note Purchase Agreement. The Director of Finance shall sign the Certificate of Award referred to in Section 4 fixing the interest rate or rates which the Notes shall bear and evidencing that sale to the original purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price.

The Note Purchase Agreement between the City and the original purchaser and now on file with the Clerk of Council is approved, and the City Manager and the Director of Finance are authorized to sign and deliver, on behalf of the City, the Note Purchase Agreement with such changes that are not inconsistent with the provisions of this Ordinance, are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance. Any such changes to the Note Purchase Agreement are not materially adverse to the interests of the City and are approved by the City Manager and the Director of Finance shall be evidenced conclusively by the signing of the Note Purchase Agreement by the City Manager and the Director of Finance.

The City Manager, the Director of Finance, the City Attorney, the Clerk of Council and other City officials, as appropriate, and any person serving in an interim or acting capacity for any such official, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The actions of the City Manager, the Director of Finance, the City Attorney, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Notes are hereby ratified and confirmed.

Section 8. The proceeds from the sale of the Notes received by the City (or withheld by the original purchaser or deposited with the Paying Agent, in each case on behalf of the City)



shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. The Certificate of Award and the Note Purchase Agreement may authorize the original purchaser to (a) withhold certain proceeds from the sale of the Notes or (b) remit certain proceeds from the sale of the Notes to the Paying Agent, in each case to provide for the payment of certain financing costs on behalf of the City. If proceeds are remitted to the Paying Agent in accordance with this Section 7, the Paying Agent shall be authorized to create a fund in accordance with the Note Registrar Agreement for that purpose. Any portion of those proceeds received by the City (after payment of those financing costs) representing premium or accrued interest shall be paid into the Bond Fund (as described below).

Section 9. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 10. The Notes are special obligations of the City, the principal of and interest on which are payable solely from the proceeds of the Bonds and by a pledge of and lien on the Nontax Revenues established by and as provided in this Ordinance which are on deposit in the Bond Fund, all as described below. The City covenants that to the extent the Notes will not be paid fully from Nontax Revenues, it will do all things necessary for the issuance of the Bonds or renewal bond anticipation notes in an appropriate amount to provide for the payment of the principal of and interest on the Notes on the maturity date of the Notes.

There was heretofore created by the City a separate account within the Bond Retirement Fund named the Economic Development Bond Retirement Account (the "*Bond Fund*") into which Nontax Revenues shall be deposited in accordance with the following provisions.

The City hereby covenants and agrees that on or before any date on which principal or interest is payable on the Notes it shall deposit into the Bond Fund from Nontax Revenues selected by the City or proceeds from the Bonds or renewal bond anticipation notes as determined by the City, an amount equal to the amount of principal and/or interest due on the Notes on that date, less, in the discretion of the City, any interest earnings or other moneys accumulated in the Bond Fund which have not theretofore been used as a credit against a prior payment obligation. Moneys in the Bond Fund shall be used solely and exclusively to pay principal and interest on City obligations payable from the Nontax Revenues.

The City hereby covenants and agrees that so long as the Notes are outstanding, it will appropriate and maintain sufficient Nontax Revenues each year to make each payment due under this Section 10 and to pay principal and interest when due; *provided, however*, the amount of such appropriation may be reduced by the amount of any Bonds or renewal bond anticipation notes issued for the purpose of refunding the Notes and payments due hereunder and under the Notes are payable solely from the proceeds of the Bonds and the Nontax Revenues, which Nontax Revenues are hereby selected by the City pursuant to Section 165.12 of the Ohio Revised Code as moneys that are not raised by taxation. The Notes are not secured by an obligation or pledge of any moneys raised by taxation. The Notes do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the City, and the registered owners of the Notes have no right to have taxes levied by the City for the payment of principal of and interest on the Notes.

Nothing herein shall be construed as requiring the City to use or apply to the payment of principal of and interest on the Notes any funds or revenues from any source other than proceeds of the Bonds and Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this Ordinance or of the Notes.

For purpose of this Ordinance, "*Nontax Revenues*" shall mean all moneys of the City which are not moneys raised by taxation, to the extent available for such purposes, including, but not limited to the following: (a) grants from the United States of America and the State of Ohio; (b) payments in lieu of taxes now or hereafter authorized by State statute; (c) fines and forfeitures which are deposited in the City's General Fund; (d) fees deposited in the City's General Fund from properly imposed licenses and permits; (e) investment earnings on the City's General Fund and which are credited to the City's General Fund; (f) investment earnings of other funds of the

City that are credited to the City's General Fund; (g) proceeds from the sale of assets which are deposited in the City's General Fund; (h) rental income which is deposited in the City's General Fund; (i) gifts and donations; and (j) proceeds from the sale of any portion of the Project.

Section 11. The Director of Finance is authorized and directed to provide the notification required by Section 165.03(D) of the Ohio Revised Code to the Director of the Ohio Development Services Agency.

Section 12. The Director of Finance is authorized to request a rating for the Notes from Moody's Investors Service, Inc. or S&P Global Ratings, or both, as the Director of Finance determines is in the best interest of the City. The expenditure of the amounts necessary to secure any such ratings as well as to pay the other financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the Notes is hereby authorized and approved and the amounts necessary to pay those costs are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 13. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes and securities issued in renewal of the Notes and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. To the extent they are not paid or reimbursed pursuant to the Note Purchase Agreement and/or the Note Registrar Agreement, the Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 14. The services of Bradley Payne, LLC., as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Notes. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. To the extent they are not paid or reimbursed pursuant to the Note Purchase Agreement and/or the Note Registrar Agreement, the Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 15. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 16. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 17. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of the inhabitants of the City, and for the further reason that this Ordinance is required to be immediately effective in order to permit the City to issue the Notes under Chapter 165 of the Ohio Revised Code in order to create or preserve jobs and employment opportunities and improve the economic welfare of the people of the City and the State of Ohio and to enable the City to timely acquire the Project; therefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### **CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2021-O-\_\_\_\_\_ passed by the City Council of the City of Huber Heights, on \_\_\_\_\_, 2021.

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

AI-7828

**New Business L.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

County Assessments Authorization

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

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

**Date(s) of Committee Review:** 09/07/2021

**Audio-Visual Needs:** None

**Emergency Legislation?:** Yes

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

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**Agenda Item Description or Legislation Title**

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)

**Purpose and Background**

Montgomery County requires all communities to pass separate legislation for assessments that are to be added to the tax duplicate. Therefore, before the City can assess property for such things as annual sidewalk assessments, grass/weed charges, property maintenance abatement, unpaid water and sewer, etc., the City must pass legislation specifically identifying the property and the amount of the assessment. Assessments are based on collection for City services previously provided; therefore, City Staff are asking that this item be passed as emergency legislation.

Exhibit A, which provides all details of the assessments, is attached. City Staff request waiving of the second reading and approval of this legislation at the City Council Meeting on September 13, 2021 because that is the last opportunity (extended time) to present assessments for the 2021 property tax bills that residents will receive in 2022.

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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  
Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2021-O-

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.

WHEREAS, pursuant to Section 6, Article XVIII of the Ohio Constitution the General Assembly has enacted general laws stating purposes for which municipalities may assess specially benefited property; and

WHEREAS, these laws include Ohio Revised Code Sections 727.01, 727.011, 727.012, 727.013, 729.06, 729.11, 1710.01(h) and others, which authorize the City to levy and collect special assessments upon the abutting, adjacent, and contiguous, or other specially benefited, lots or lands in the municipal corporation, for among other things, any part of the cost connected with the improvement of any street, public road, place, boulevard, parkway, or park entrance or an easement of the municipal corporation; sidewalk construction; sewers; sewage disposal works and treatment plants, sewage pumping stations, water treatment plants, water pumping stations, reservoirs, and water storage tanks or standpipes, together with the facilities and appurtenances necessary and proper therefore; drains, storm-water retention basins, watercourses, water mains, or laying of water pipe; lighting; any part of the cost and expense of planting, maintaining, and removing shade trees thereupon; any part of the cost and expense of constructing, maintaining, repairing, cleaning, and enclosing ditches; and

WHEREAS, for such approved assessments, the County Auditor is to act at the direction, or on behalf, of a municipality with respect to collection of such assessments R.C. 727.30; (R.C. 727.33); and

WHEREAS, the General Assembly has also enacted laws that require a County Auditor to act at the direction, or on behalf, of a municipality with respect to collection of certain costs assessed to properties including but not limited to R.C 743.04, 715.261 and 731.51-54; and

WHEREAS, as a result of the foregoing, the City of Huber Heights has passed, and will in the future pass, laws to assess real property for all or part of the cost of a public improvement and/or certain permitted costs of abatement or collection, including but not limited to Ordinance No. 97-O-997 codified as Huber Heights Code Section 175.04 Assessments for Capital Improvement Projects (for sanitary sewer, water, sidewalks and drive aprons, roadways and storm sewers); Ordinance No. 90-O-419 codified as Huber Heights Code Section 919.01 (street lighting); Ordinance No. 2009-O-1771 codified as Huber Heights Code Section 929.16 (unpaid water service); Ordinance No. 1996-O-856 codified as Huber Heights Code Section 923.08 (unpaid sanitary sewer); Ordinance No. 2002-O-1325 codified as Huber Heights Code Section 922.32 (stormwater); Ordinance No. 2014-O-2096 codified as Huber Heights Code Section 521.11 (nuisance in the right of way); Huber Heights Code Section 911.02 (sidewalk repair); Ordinance No. 2002-O-1324 and No. 2011-O-1897 (weed cutting assessment); Huber Heights Code Sections 925.05 (lower Rip Rap Road sewer district assessment), 952.04 (nuisance abatement for false alarms), 521.081, (littering and deposit of garbage) and such other ordinances or resolution that may be passed from time to time pursuant to these codified laws; and

WHEREAS, in order to better track and account for authorized legal assessments and the amounts due to the City, City Council has determined it is in the best interest of the citizens to pass this Ordinance setting forward the applicable properties and assessment amounts to be certified to the County for collection; and

WHEREAS, the assessments set forth in Exhibit A have been authorized by the City Council of the City of Huber Heights and are required by law to be assessed and collected by the County on behalf of the City.

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

Section 1. The properties set forth on the attached Exhibit A, which is incorporated herein by this reference, are to be assessed in the amount also set forth on the applicable section of Exhibit A unless payment is made within the time frame set forth in the applicable section of Exhibit A.

Section 2. In the event a payment for the amount or any portion of the amount set forth in Exhibit A is received by the City prior to final assessment date set forth in Exhibit A, which is the same date set forth in the notice sent to such property owner, the Finance Director, or his/her designee is authorized to remove or revise such assessment from Exhibit A prior to certification to the County Auditor.

Section 3. The Finance Director or his/her designee is instructed to certify this Ordinance, including the final assessed properties in Exhibit A, to the applicable County Auditor for collection.

Section 4. 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 5. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, welfare and safety of the City, and for the further reasons that finalizing and certifying assessment at the earliest time is necessary to timely establish a lien and protect the City's interest in payment of amounts owed to the City; therefore, this Ordinance shall be in full force and effect immediately upon its passage

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXHIBIT A

Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31500	Grass/Weeds	P70 00202 0078	5811 Shore Dr	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 00202 0268	4033 Kennebec Ave	\$ 349.90	2021	February 2022
31500	Grass/Weeds	P70 00202 0275	4056 Catawba Ave	\$ 386.65	2021	February 2022
31500	Grass/Weeds	P70 00202 0358	4013 Champaign Ave	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 00202 0581	Rip Rap Rd(corner of Navajo Ave &	\$ 322.34	2021	February 2022
31500	Grass/Weeds	P70 00202 0604	6333 Blackfoot St	\$ 349.90	2021	February 2022
31500	Grass/Weeds	P70 00202 0728	6475 Rip Rap Rd	\$ 653.87	2021	February 2022
31500	Grass/Weeds	P70 00306 0018	7210 Kirkview Dr	\$ 322.34	2021	February 2022
31500	Grass/Weeds	P70 00315 0013	7240 Rustic Woods Dr	\$ 359.09	2021	February 2022
31500	Grass/Weeds	P70 00418 0005	5288-5290 Coco Dr	\$ 349.90	2021	February 2022
31500	Grass/Weeds	P70 00513 0011	8908 Gardengate Dr	\$ 322.34	2021	February 2022
31500	Grass/Weeds	P70 00516 0023	8909 Cypressgate Dr	\$ 340.71	2021	February 2022
31500	Grass/Weeds	P70 00611 0039	8299 Briar Ridge Ct	\$ 672.24	2021	February 2022
31500	Grass/Weeds	P70 00619 0058	6358 Greenfield Way	\$ 635.49	2021	February 2022
31500	Grass/Weeds	P70 00907 0033	4450 Lambeth Dr	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 00909 0044	5356 Mystic Dr	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 00911 0017	5189 Packard Dr	\$ 359.09	2021	February 2022
31500	Grass/Weeds	P70 00913 0004	4427 Kitridge Rd	\$ 930.27	2021	February 2022
31500	Grass/Weeds	P70 00913 0010	4457 Kitridge Rd	\$ 985.58	2021	February 2022
31500	Grass/Weeds	P70 00915 0018	4572 Korner Dr	\$ 994.77	2021	February 2022
31500	Grass/Weeds	P70 00915 0028	4510 Korner Dr	\$ 322.53	2021	February 2022
31500	Grass/Weeds	P70 01006 0053	5446 Tibet Dr	\$ 653.87	2021	February 2022
31500	Grass/Weeds	P70 01009 0021	5964 Tibet Dr	\$ 976.21	2021	February 2022
31500	Grass/Weeds	P70 01114 0034	7129 Troy Manor	\$ 340.90	2021	February 2022
31500	Grass/Weeds	P70 01202 0007	7249 Charnwood Dr	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 01313 0027	6912 Shellcross Dr	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 01404 0041	5479 Naughton Dr	\$ 653.87	2021	February 2022
31500	Grass/Weeds	P70 01409 0034	5838 Brandt Pike	\$ 663.05	2021	February 2022
31500	Grass/Weeds	P70 01410 0042	5850 Brandt Pike	\$ 994.58	2021	February 2022
31500	Grass/Weeds	P70 01410 0042	5850 Brandt Pk	\$ 331.72	2021	February 2022
31500	Grass/Weeds	P70 01411 0037	5773 Botkins Rd	\$ 644.68	2021	February 2022
31500	Grass/Weeds	P70 01417 0018	5788 Benedict Rd	\$ 699.80	2021	February 2022
31500	Grass/Weeds	P70 01502 0023	4530 Penhurst PL	\$ 1,418.17	2021	February 2022
31500	Grass/Weeds	P70 01505 0052	5325 Fishburg	\$ 663.05	2021	February 2022
31500	Grass/Weeds	P70 01505 0052	5325 Fishburg Rd	\$ 322.53	2021	February 2022
31500	Grass/Weeds	P70 01512 0043	5501 Moorefield Dr	\$ 1,003.77	2021	February 2022
31500	Grass/Weeds	P70 01602 0017	6142 Sanbury Dr	\$ 349.90	2021	February 2022
31500	Grass/Weeds	P70 01603 0038	5045 Chesham Dr	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 01610 0018	7039 Claybeck Dr	\$ 322.34	2021	February 2022
31500	Grass/Weeds	P70 01614 0047	6514 Rosebury Dr	\$ 681.43	2021	February 2022
31500	Grass/Weeds	P70 01616 0028	5956 Corsica Dr	\$ 653.87	2021	February 2022
31500	Grass/Weeds	P70 01617 0006	6627 Celestine St	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 01710 0010	6523 Highury Rd	\$ 349.90	2021	February 2022
31500	Grass/Weeds	P70 01718 0007	5656 Bellefontaine Rd	\$ 386.65	2021	February 2022
31500	Grass/Weeds	P70 01909 0019	5176 Old Troy Pike	\$ 340.71	2021	February 2022
31500	Grass/Weeds	P70 01911 0025	5507 Rockdell Ct	\$ 331.53	2021	February 2022
31500	Grass/Weeds	P70 01918 0001	5958 Old Troy Pike	\$ 349.90	2021	February 2022
31500	Grass/Weeds	P70 02021 0009	5985 Fox Trace Ct	\$ 644.68	2021	February 2022
31500	Grass/Weeds	P70 02027 0020	5675 Cottonwood Ct	\$ 1,270.98	2021	February 2022
31500	Grass/Weeds	P70 02205 0020	4699 Santa Anita Pl	\$ 368.28	2021	February 2022
31500	Grass/Weeds	P70 03904 0085	8701 Adams Rd	\$ 643.90	2021	February 2022
31500	Grass/Weeds	P70 03912 0079	5363 Tilbury Rd	\$ 1,894.96	2021	February 2022
31500	Grass/Weeds	P70 04005 0056	7605 Old Troy Pike	\$ 1,538.39	2021	February 2022
31500	Grass/Weeds	P70 04005 0100	7650 Waynetowne Bl	\$ 1,219.55	2021	February 2022
31500	Grass/Weeds	P70 04005 0141	7609 Old Troy Pike	\$ 1,712.95	2021	February 2022
			TOTAL GRASS/WEEDS	\$ 33,735.37		

Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31950	Property Maintenance	P70 03912 0079	5363 Tilbury Rd	\$12,916.65	2021	February 2022
31950	Property Maintenance	P70 01718 0007	5656 Bellefontaine Rd	\$763.13	2021	February 2022
31950	Property Maintenance	P70 01009 0008	5046 Sabra Ave	\$558.51	2021	February 2022
			TOTAL PROPERTY MAINT	\$12,916.65		

Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31850	Trash/Litter	P70 01502 0023	4530 Penhurst PL	\$567.90	2021	February 2022
31850	Trash/Litter	P70 04005 0100	7650 Waynetowne PL	\$935.50	2021	February 2022
31850	Trash/Litter	P70 01506 0008	6130 Ansbury Dr	\$425.87	2021	February 2022
31850	Trash/Litter	P70 03904 0085	8701 Adams Rd	\$382.27	2021	February 2022
31850	Trash/Litter	P70 00202 0534	4156 Navajo Ave	\$2,554.41	2021	February 2022
31850	Trash/Litter	P70 01408 0042	5701 Belmar Dr	\$3,682.15	2021	February 2022
			TOTAL TRASH/LITTER	\$8,548.10		



Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31322	Delq. Water	P70 00202 0677	6441 Rip Rap Rd	\$21.00	2021	February 2022
31322	Delq. Water	P70 00202 0710	6346 Apache St	\$1.13	2021	February 2022
31322	Delq. Water	P70 00202 0770	4037 Navajo Ave	\$1.10	2021	February 2022
31322	Delq. Water	P70 00202 1186	6475 Rip Rap Rd	\$4.82	2021	February 2022
31322	Delq. Water	P70 00619 0058	6358 Greenfield Way	\$95.11	2021	February 2022
31322	Delq. Water	P70 00911 0007	4351 Kitridge Rd	\$68.03	2021	February 2022
31322	Delq. Water	P70 00913 0002	4415 Kitridge Rd	\$126.32	2021	February 2022
31322	Delq. Water	P70 00913 0026	4675 Knob Hill Dr	\$125.81	2021	February 2022
31322	Delq. Water	P70 00914 0030	4541 Kapp Dr	\$64.37	2021	February 2022
31322	Delq. Water	P70 01008 0078	5784 Traymore Dr	\$152.91	2021	February 2022
31322	Delq. Water	P70 01009 0008	5046 Sabra Ave	\$83.43	2021	February 2022
31322	Delq. Water	P70 01107 0030	7420 Biscayne Ct	\$10.35	2021	February 2022
31322	Delq. Water	P70 01206 0027	6771 Pablo Dr	\$97.47	2021	February 2022
31322	Delq. Water	P70 01313 0027	6912 Shellcross Dr	\$297.59	2021	February 2022
31322	Delq. Water	P70 01502 0022	4540 Penhurst Pl	\$44.71	2021	February 2022
31322	Delq. Water	P70 01511 0035	5231 Fishburg Rd	\$60.18	2021	February 2022
31322	Delq. Water	P70 01512 0008	6379 Chippingdon Dr	\$35.47	2021	February 2022
31322	Delq. Water	P70 01610 0033	7017 Harshmanville	\$105.36	2021	February 2022
31322	Delq. Water	P70 01614 0047	6514 Rosebury Dr	\$150.49	2021	February 2022
31322	Delq. Water	P70 01905 0024	5068 Nebraska Ave	\$336.68	2021	February 2022
31322	Delq. Water	P70 01917 0022	7272 Charlesworth Dr	\$57.66	2021	February 2022
31322	Delq. Water	P70 01923 0002	5836 Old Troy Pk	\$2,604.96	2021	February 2022
31322	Delq. Water	P70 02205 0020	4699 Santa Anita Pl	\$76.15	2021	February 2022
31322	Delq. Water	P70 03903 0072	8984 Bellefontaine Rd	\$0.74	2021	February 2022
31322	Delq. Water	P70 03904 0012	7544 Chambersburg Rd	\$0.74	2021	February 2022
31322	Delq. Water	P70 03904 0041	8184 Chambersburg Rd	\$0.74	2021	February 2022
31322	Delq. Water	P70 03904 0085	8701 Adams Rd	\$97.27	2021	February 2022
31322	Delq. Water	P70 03908 0040	6980 Chambersburg Rd	\$0.74	2021	February 2022
31322	Delq. Water	P70 04002 0018	6409 Shull Rd	\$0.74	2021	February 2022
			TOTAL DELQ. WATER	\$4,722.07		

Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31103	Delq. Storm Water	P70 00202 0010	6141 Rip Rap Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0113	5819 Shore Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0173	6177 Apache St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0212	6171 Pocahontas St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0225	6035 Shore Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0275	4056 Catawba Ave	\$8.82	2021	February 2022
31103	Delq. Storm Water	P70 00202 0284	4086 Catawba Ave	\$17.64	2021	February 2022
31103	Delq. Storm Water	P70 00202 0330	6219 Apache St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0358	4013 Champaign Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0362	4029 Champaign Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0376	6325 Champaign Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0405	4026 Navajo Ave	\$4.41	2021	February 2022
31103	Delq. Storm Water	P70 00202 0456	6220 Apache St	\$22.05	2021	February 2022
31103	Delq. Storm Water	P70 00202 0534	4156 Navajo Ave	\$39.69	2021	February 2022
31103	Delq. Storm Water	P70 00202 0578	4180 Navajo Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0604	6333 Blackfoot St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0677	6441 Rip Rap Rd	\$10.14	2021	February 2022
31103	Delq. Storm Water	P70 00202 0710	6346 Apache St	\$4.41	2021	February 2022
31103	Delq. Storm Water	P70 00202 0710	6346 Apache St	\$11.25	2021	February 2022
31103	Delq. Storm Water	P70 00202 0712	6352 Apache St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0753	4095 Navajo Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0756	4087 Navajo Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 0758	4079 Navajo Ave	\$15.44	2021	February 2022
31103	Delq. Storm Water	P70 00202 0770	4037 Navajo Ave	\$8.82	2021	February 2022
31103	Delq. Storm Water	P70 00202 1131	6030 Shore Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 1157	5810 Shore Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 1160	5790 Shore Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 1186	6475 Rip Rap Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 1200	6461 Rip Rap Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00202 1204	6255 Blackfoot St	\$4.41	2021	February 2022
31103	Delq. Storm Water	P70 00211 0001	7500 Bellefontaine Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00211 0006	8373 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00212 0001	7620 Walmac St	\$25.14	2021	February 2022
31103	Delq. Storm Water	P70 00212 0007	7593 Walmac St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00213 0007	8489 Betal Ct	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00213 0009	7644 Walmac St	\$27.72	2021	February 2022
31103	Delq. Storm Water	P70 00213 0011	7671 Walmac St	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00214 0001	8320 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00512 0037	5919 Timbergate Tr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00513 0011	8908 Gardengate Dr	\$24.05	2021	February 2022
31103	Delq. Storm Water	P70 00515 0018	8941 Willowgate La	\$28.67	2021	February 2022



31103	Delq. Storm Water	P70 00518 0005	4169 Powell Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00603 0034	6372 Rolling Glen Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00611 0039	8299 Briar Ridge Ct	\$18.69	2021	February 2022
31103	Delq. Storm Water	P70 00619 0058	6358 Greenfield Way	\$13.62	2021	February 2022
31103	Delq. Storm Water	P70 00705 0002	6750 Brandt Pk	\$101.27	2021	February 2022
31103	Delq. Storm Water	P70 00801 0019	7209 Summerdale Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00902 0010	7742 Belleplain Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00906 0004	4343 Lambeth Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 00907 0030	4457 Longfellow Ave	\$30.06	2021	February 2022
31103	Delq. Storm Water	P70 00911 0007	4351 Kitridge Rd	\$8.09	2021	February 2022
31103	Delq. Storm Water	P70 00911 0052	4682 Kautz Dr	\$24.01	2021	February 2022
31103	Delq. Storm Water	P70 00913 0002	4415 Kitridge Rd	\$15.93	2021	February 2022
31103	Delq. Storm Water	P70 00913 0026	4675 Knob Hill Dr	\$18.09	2021	February 2022
31103	Delq. Storm Water	P70 00913 0036	4672 Longfellow Ave	\$16.62	2021	February 2022
31103	Delq. Storm Water	P70 00913 0037	4666 Longfellow Ave	\$23.64	2021	February 2022
31103	Delq. Storm Water	P70 00914 0030	4541 Kapp Dr	\$7.98	2021	February 2022
31103	Delq. Storm Water	P70 00915 0018	4572 Korner Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01005 0040	4773 Rittenhouse Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01008 0078	5784 Traymore Dr	\$14.18	2021	February 2022
31103	Delq. Storm Water	P70 01009 0008	5046 Sabra Ave	\$11.52	2021	February 2022
31103	Delq. Storm Water	P70 01013 0052	5724 Rousseau Dr	\$29.58	2021	February 2022
31103	Delq. Storm Water	P70 01014 0008	4860 Rittenhouse Dr	\$30.14	2021	February 2022
31103	Delq. Storm Water	P70 01106 0005	7350 Brandt Pk	\$21.03	2021	February 2022
31103	Delq. Storm Water	P70 01107 0030	7420 Biscayne Ct	\$3.57	2021	February 2022
31103	Delq. Storm Water	P70 01206 0027	6771 Pablo Dr	\$13.58	2021	February 2022
31103	Delq. Storm Water	P70 01305 0033	5575 Clagston Ct	\$24.08	2021	February 2022
31103	Delq. Storm Water	P70 01313 0013	7500 Shalamar Dr	\$21.53	2021	February 2022
31103	Delq. Storm Water	P70 01313 0027	6912 Shellcross Dr	\$15.97	2021	February 2022
31103	Delq. Storm Water	P70 01404 0012	4842 Nebraska Ave	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01404 0041	5479 Naughton Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01408 0018	5720 Botkins Rd	\$28.80	2021	February 2022
31103	Delq. Storm Water	P70 01410 0019	5929 Rosalie Rd	\$22.05	2021	February 2022
31103	Delq. Storm Water	P70 01502 0022	4540 Penhurst Pl	\$6.58	2021	February 2022
31103	Delq. Storm Water	P70 01505 0052	5325 Fishburg Rd	\$14.98	2021	February 2022
31103	Delq. Storm Water	P70 01511 0035	5231 Fishburg Rd	\$8.85	2021	February 2022
31103	Delq. Storm Water	P70 01512 0008	6379 Chippingdon Dr	\$1.68	2021	February 2022
31103	Delq. Storm Water	P70 01603 0010	4982 Queensbury Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01610 0033	7017 Harshmanville	\$15.51	2021	February 2022
31103	Delq. Storm Water	P70 01614 0047	6514 Rosebury Dr	\$17.54	2021	February 2022
31103	Delq. Storm Water	P70 01616 0028	5956 Corsica Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01709 0059	7031 Klyemore Dr	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 01712 0021	6420 Luton Ct	\$18.69	2021	February 2022
31103	Delq. Storm Water	P70 01905 0024	5068 Nebraska Ave	\$27.06	2021	February 2022
31103	Delq. Storm Water	P70 01917 0022	7272 Charlesworth Dr	\$8.09	2021	February 2022
31103	Delq. Storm Water	P70 01923 0002	5836 Old Troy Pk	\$174.72	2021	February 2022
31103	Delq. Storm Water	P70 02014 0001	8640 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 02021 0009	5985 Fox Trace Ct	\$24.68	2021	February 2022
31103	Delq. Storm Water	P70 02205 0020	4699 Santa Anita Pl	\$5.88	2021	February 2022
31103	Delq. Storm Water	P70 02210 0054	7409 Ballauer Pl	\$24.08	2021	February 2022
31103	Delq. Storm Water	P70 03901 0010	8610 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03901 0071	8836 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03902 0016	9160 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03902 0046	7300 New Carlisle Pk	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03902 0049	9304 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03902 0050	9340 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03902 0055	9341 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03903 0061	9367 Artz Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03903 0072	8984 Bellefontaine Rd	\$25.20	2021	February 2022
31103	Delq. Storm Water	P70 03903 0095	8040 Center Point 70 Blvd	\$211.08	2021	February 2022
31103	Delq. Storm Water	P70 03904 0006	7795 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03904 0012	7544 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03904 0019	8216 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03904 0038	7527 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03904 0041	8184 Chambersburg Rd	\$25.36	2021	February 2022
31103	Delq. Storm Water	P70 03904 0085	8701 Adams Rd	\$9.73	2021	February 2022
31103	Delq. Storm Water	P70 03904 0092	7850 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03905 0004	7780 Bellefontaine Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03905 0051	8098 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03905 0062	8125 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03905 0081	8767 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03905 0086	7707 Bellefontaine Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03905 0088	7815 Bellefontaine Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03906 0030	8485 Bellefontaine Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0017	7489 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0018	7440 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0022	6583 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0028	7405 Chambersburg Rd	\$26.46	2021	February 2022

31103	Delq. Storm Water	P70 03908 0029	6580 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0031	6616 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0040	6980 Chambersburg Rd	\$24.83	2021	February 2022
31103	Delq. Storm Water	P70 03908 0047	7020 Chambersburg Rd	\$27.72	2021	February 2022
31103	Delq. Storm Water	P70 03908 0054	6745 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0065	6535 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0083	7230 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0117	6871 Bellefontaine Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 0173	7318 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03908 9022	6585 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03909 0058	7459 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03911 0038	5730 Brandt Pk	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03912 0023	5119 Fishburg	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 03912 0079	5363 Tilbury Rd	\$493.75	2021	February 2022
31103	Delq. Storm Water	P70 04001 0006	6225 Taylorsville Rd	\$26.36	2021	February 2022
31103	Delq. Storm Water	P70 04001 0042	6775 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04002 0018	6409 Shull Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04003 0043	4316 Powell Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04003 0051	4280 Powell Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04003 0056	4366 Powell Rd	\$25.14	2021	February 2022
31103	Delq. Storm Water	P70 04003 0131	5543-5629 Old Troy Pk	\$524.87	2021	February 2022
31103	Delq. Storm Water	P70 04004 0017	4949 Chambersburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04005 0055	5201 Taylorsville Rd	\$309.77	2021	February 2022
31103	Delq. Storm Water	P70 04005 0055	5201 Taylorsville Rd	\$103.26	2021	February 2022
31103	Delq. Storm Water	P70 04006 0071	8169 Old Troy Pk	\$82.97	2021	February 2022
31103	Delq. Storm Water	P70 04007 0009	4460 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04007 0024	4214 Powell Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04007 0039	4250 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04007 0056	4242 Powell Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04008 0009	6240 Endicott Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04008 0016	6124 Endicott Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04008 0028	4517 Fishburg Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04009 0016	4246 Taylorsville Rd	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 04009 0055	7571 Bridgewater	\$26.46	2021	February 2022
31103	Delq. Storm Water	P70 50217 0047	5801 Troy Villa Blvd	\$26.46	2021	February 2022
			<b>TOTAL DELQ. STORM WATER</b>	<b>\$5,360.01</b>		

Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31324	Delq. Sewer	P70 00202 0010	6141 Rip Rap Rd	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0113	5819 Shore Dr	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0173	6177 Apache St	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0212	6171 Pocahontas St	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0225	6035 Shore Dr	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0275	4056 Catawba Ave	\$72.53	2021	February 2022
31324	Delq. Sewer	P70 00202 0284	4086 Catawba Ave	\$145.07	2021	February 2022
31324	Delq. Sewer	P70 00202 0330	6219 Apache St	\$186.10	2021	February 2022
31324	Delq. Sewer	P70 00202 0358	4013 Champaign Ave	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0362	4029 Champaign Ave	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0376	6325 Champaign Ave	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0405	4026 Navajo Ave	\$81.14	2021	February 2022
31324	Delq. Sewer	P70 00202 0456	6220 Apache St	\$181.34	2021	February 2022
31324	Delq. Sewer	P70 00202 0578	4180 Navajo Ave	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0604	6333 Blackfoot St	\$290.30	2021	February 2022
31324	Delq. Sewer	P70 00202 0677	6441 Rip Rap Rd	\$83.42	2021	February 2022
31324	Delq. Sewer	P70 00202 0710	6346 Apache St	\$36.27	2021	February 2022
31324	Delq. Sewer	P70 00202 0710	6346 Apache St	\$113.49	2021	February 2022
31324	Delq. Sewer	P70 00202 0753	4095 Navajo Ave	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0756	4087 Navajo Ave	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 0758	4079 Navajo Ave	\$123.89	2021	February 2022
31324	Delq. Sewer	P70 00202 0770	4037 Navajo Ave	\$72.53	2021	February 2022
31324	Delq. Sewer	P70 00202 1131	6030 Shore Dr	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 1157	5810 Shore Dr	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 1160	5790 Shore Dr	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 1186	6475 Rip Rap Rd	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 1200	6461 Rip Rap Rd	\$217.60	2021	February 2022
31324	Delq. Sewer	P70 00202 1204	6255 Blackfoot St	\$36.27	2021	February 2022
31324	Delq. Sewer	P70 00619 0058	6358 Greenfield Way	\$66.79	2021	February 2022
31324	Delq. Sewer	P70 00911 0007	4351 Kitridge Rd	\$47.21	2021	February 2022
31324	Delq. Sewer	P70 00913 0002	4415 Kitridge Rd	\$88.33	2021	February 2022
31324	Delq. Sewer	P70 00913 0026	4675 Knob Hill Dr	\$88.37	2021	February 2022
31324	Delq. Sewer	P70 00914 0030	4541 Kapp Dr	\$44.75	2021	February 2022
31324	Delq. Sewer	P70 01008 0078	5784 Traymore Dr	\$104.69	2021	February 2022
31324	Delq. Sewer	P70 01009 0008	5046 Sabra Ave	\$58.45	2021	February 2022
31324	Delq. Sewer	P70 01107 0030	7420 Biscayne Ct	\$13.25	2021	February 2022
31324	Delq. Sewer	P70 01206 0027	6771 Pablo Dr	\$68.32	2021	February 2022
31324	Delq. Sewer	P70 01313 0027	6912 Shellcross Dr	\$188.20	2021	February 2022

31324	Delq. Sewer	P70 01502 0022	4540 Penhurst Pl	\$31.46	2021	February 2022
31324	Delq. Sewer	P70 01511 0035	5231 Fishburg Rd	\$42.34	2021	February 2022
31324	Delq. Sewer	P70 01512 0008	6379 Chippingdon Dr	\$37.05	2021	February 2022
31324	Delq. Sewer	P70 01610 0033	7017 Harshmanville	\$74.13	2021	February 2022
31324	Delq. Sewer	P70 01614 0047	6514 Rosebury Dr	\$112.44	2021	February 2022
31324	Delq. Sewer	P70 01905 0024	5068 Nebraska Ave	\$228.81	2021	February 2022
31324	Delq. Sewer	P70 01917 0022	7272 Charlesworth Dr	\$40.44	2021	February 2022
31324	Delq. Sewer	P70 01923 0002	5836 Old Troy Pk	\$1,870.32	2021	February 2022
31324	Delq. Sewer	P70 02205 0020	4699 Santa Anita Pl	\$51.73	2021	February 2022
31324	Delq. Sewer	P70 04001 0006	6225 Taylorsville Rd	\$332.33	2021	February 2022
			<b>TOTAL DELQ. SEWER</b>	<b>\$8,493.36</b>		

AI-7829

**New Business**     **M.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Chambersburg Road Widening Project - Phase IV - Contract Modification

**Submitted By:** Hanane Eisentraut

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

**Council Committee Review?:** Council **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

**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 Enter Into A Contract Modification With The Kleingers Group For The Chambersburg Road Widening Improvements – Phase IV Project.  
(first reading)

**Purpose and Background**

This legislation will authorize the City Manager to enter into a contract modification and increase The Kleingers Group contract by \$100,000 to cover the cost of the modification of the design and the additional studies required by the Ohio Department of Transportation (ODOT) to allow the City to move forward with the Chambersburg Road Widening Improvements - Phase IV Project.

Those modifications include the addition of a 10' dedicated multi-use trail facility on the north side of Chambersburg Road, sidewalk on the south side, submittal of level one Ecological Survey Report (ESR), update the required Feasibility Study of Phases IV, V, and VI, modification of the right of way plans and the legal descriptions for the right of way and temporary/permanent easements, management of the required public meeting in person and recorded/posted online meetings.

The Capital Fund will be utilized for the cost of the design modification of this project.

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**Fiscal Impact**

**Source of Funds:** Capital Fund

**Cost:** \$100,000

**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. 2021-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT  
MODIFICATION WITH THE KLEINGERS GROUP FOR THE CHAMBERSBURG ROAD  
WIDENING IMPROVEMENTS – PHASE IV PROJECT.

WHEREAS, the City Council has applied and received a grant through Miami Valley Regional  
Planning Commission (MVRPC) for the construction of the Chambersburg Road Widening  
Improvements – Phase IV Project; and

WHEREAS, City Council had previously authorized the City Manager to enter into a contract  
with The Kleingers Group for the design of Chambersburg Road Widening Improvements –  
Phase IV Project at a cost not to exceed \$135,000.00; and

WHEREAS, it is necessary to increase the contract amount with The Kleingers Group to reflect  
the modification of the design and the additional studies required by Ohio Department of  
Transportation (ODOT) to allow the City to move forward with the Chambersburg Road  
Widening Improvements – Phase IV Project; and

WHEREAS, sufficient funds are available to cover the cost of the additional work.

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

Section 1. The City Manager is hereby authorized to increase the contract with The  
Kleingers Group for the Chambersburg Road Widening Improvements – Phase IV Project by  
\$100,000.00 to a new total of \$235,000.00.

Section 2. Authorization is hereby given to compensate The Kleingers Group for additional  
work already completed.

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 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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

AI-7830

**New Business**     **N.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

2021 Sidewalk Program and Concrete Portion of the 2021 Street Program - Contract Modification

**Submitted By:** Hanane Eisentraut

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

**Council Committee Review?:** Council **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

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

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

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**Agenda Item Description or Legislation Title**

A Resolution Amending Resolution No. 2021-R-6980 To Increase The Not To Exceed Amount For A Portion Of The 2021 Sidewalk Program And The Concrete Portion Of The 2021 Street Program.  
(first reading)

**Purpose and Background**

This legislation will authorize the City Manager to enter into contract modification and increase the Multi-Task Construction contract by \$55,000 to cover the cost of reconstructing the handicap ramps on Old Troy Pike from Fishburg Road to the southern City Limit. This section of Old Troy Pike is scheduled to be paved in 2022 under the ODOT Urban Paving Program. The City is required at its own expense to modify the handicap ramps to be compliant with the American Disabilities Act (ADA). Multi-Task Construction was the lowest bidder for the Concrete Portion of 2021 Street Program and also had the lowest unit prices for the handicap ramps. This contractor agreed to modify the 28 handicap ramps on Old Troy Pike for the same unit prices as in the previous bid.

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**Fiscal Impact**

**Source of Funds:** Street Capital Fund

**Cost:** \$55,000

**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 2021-R-

AMENDING RESOLUTION NO. 2021-R-6980 TO INCREASE THE NOT TO EXCEED AMOUNT FOR A PORTION OF THE 2021 SIDEWALK PROGRAM AND THE CONCRETE PORTION OF THE 2021 STREET PROGRAM.

WHEREAS, the City Council had previously authorized the City Manager to enter into a contract with Multi-Task Construction for Section C: Concrete Portion of 2021 Street Program at a cost not to exceed \$780,000.00; and

WHEREAS, Old Troy Pike (State Route 202) from Fishburg Road to the southern City limit will be paved in 2022 under Ohio Department of Transportation (ODOT) Urban Paving Program; and

WHEREAS, the handicap ramps are required to be reconstructed at City cost to comply with the American Disabilities Act (ADA) before the paving operation; and

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

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

Section 1. Section 3 of Resolution No. 2021-R-6980 is hereby amended to increase the not to exceed amount of the contract with Multi-Task Construction for Section C: Concrete Portion of 2021 Street Program by \$55,000.00 to a new total of \$835,000.00.

Section 2. Authorization is hereby given to compensate Multi-Task Construction for additional work already completed.

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 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 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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

AI-7831

**New Business**    **O.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Marian Meadows Demolition - Phase II - Award Contract

**Submitted By:** Hanane Eisentraut

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

**Council Committee Review?:** Council **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

**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 Enter Into A Contract For The Marian Meadows Demolition – Phase II Project.  
(first reading)

**Purpose and Background**

This legislation will authorize the City Manager to enter into a contract with Advanced Demolition Services as the lowest and best bidder for the Marian Meadows Demolition - Phase II Project at a cost not to exceed \$97,000. The City has applied through Montgomery County and has received a Community Development Block Grant (CDBG) to demolish a portion of the Marian Meadows strip center located at 6131-6147 Brandt Pike. Since the bid received was lower than the estimated cost, additional quantities at the unit price received in the bid for the parking lot cold planing were added to the contract to capitalize on the grant fund received.

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**Fiscal Impact**

**Source of Funds:** CDBG Grant and Note Proceeds

**Cost:** \$97,000

**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**  
**SOUTHPOINTE CROSSING DEMOLITION PHASE II**  
**BID RESULT**  
**BID DATE: AUGUST 11, 2021**

CONTRACTOR'S NAME	BID AMOUNT	
Advanced Demolition	\$ 59,300	110 Calendar Days
	Bid Bond - Yes	
Steve Rauch	\$ 194,620	30 Calendar Days
	Bid Bond - Yes	
Durst Brothers	\$ 89,530	100 Calendar Days
	Bid Bond - Yes	
Charles Jergens	\$ 113,358	60 Calendar Days
	Bid Bond - Yes	
O'Rourke	\$ 112,265	30 Calendar Days
	Bid Bond - Yes	

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE MARIAN MEADOWS DEMOLITION – PHASE II PROJECT.

WHEREAS, the City of Huber Heights has received a Community Development Block Grant (CDBG) through Montgomery County for the Marian Meadows Demolition – Phase II Project; and

WHEREAS, City Council under Resolution No. 2021-R-7021, dated July 12, 2021, has previously authorized the securing of bids for the Marian Meadows Demolition – Phase II Project; and

WHEREAS, construction bids were properly received on August 11, 2021.

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

Section 1. The City Manager is hereby authorized to enter into a contract for the Marian Meadows Demolition – Phase II Project with Advanced Demolition Services as the lowest and best bidder at a cost not to exceed \$97,000.00 on the terms and conditions as substantially set forth in the bid documents.

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 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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

AI-7832

**New Business    P.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Maintenance Cap Increase - Suez Water

**Submitted By:** Geri Hoskins

**Department:** Engineering

**Council Committee Review?:** Council      **Date(s) of Committee Review:** 09/07/2021  
Work  
Session

**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 Maintenance Contract Amount And Authorize The City Manager To Enter Into A Contract Modification With Suez Water Environmental Services, Inc. (first reading)

**Purpose and Background**

Maintenance cap monies used by Suez Water Environmental, Inc. to date represents 92% of the total approved maintenance cap of \$160,000. A purchase order in the amount of \$160,000 is being requested to cover the estimated maintenance expenditures between now and the end of the year. The Maintenance Cap Summary attachment provides a full detail of the year's monthly expenditures up through August 31, 2021 and a calculation of the \$160,000 in additional monies needed before the end of the year.

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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**

Maintenance Cap Summary  
Resolution

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<b>Vendor</b>	<b>Amount</b>	<b>Description</b>
Aqua-Line	\$ 764.60	Emergency leak detection services (7217 Taylorsville Rd)
Cummins Sales and Service	\$ 1,409.81	Renewal of semi-annual generator maintenance agreement at the Shop
Cummins Sales and Service	\$ 1,658.62	Renewal of semi-annual generator maintenance agreement at Brandt Pk
Element	\$ 1,069.89	Vehicle maintenance
Element	\$ 3,751.74	Vehicle maintenance
Lee Shellhaas	\$ 1,200.00	Concrete repair for mainbreak repair at corner of Hubbard and Alter
Lee Shellhaas	\$ 1,700.00	Concrete repair for mainbreak repair at 5716 Fisher Rd
OUPS	\$ 72.00	Monthly maintenance fee
Peterson Construction Company	\$ 3,770.00	Transfer pump replacement for caustic soda
Allied Technical Services Inc	\$ 3,493.52	Bypass pump for Apache lift station
Groundscape Maintenance	\$ 4,219.38	Yard repair due to mainbreak repair
C&S Solutions	\$ 137.93	Repair parts for pipe locator to mark main water lines
Core & Main	\$ 506.54	Angle valve repair
Core & Main	\$ 567.75	Hydrant repair
Core & Main	\$ 488.04	Mainbreak repair
Core & Main	\$ 739.91	Mainbreak repair
Carey Electric	\$ 210.00	Install electric to pump at Brandt Pk lift station
Carey Electric	\$ 140.00	Troubleshoot pump at Oaks lift station
Core & Main	\$ 573.55	Mainbreak repair
Core & Main	\$ 488.04	Mainbreak repair
Core & Main	\$ 244.02	Mainbreak repair
Carey Electric	\$ 411.00	Troubleshoot no power to control cabinet at Cosner lift station
Core & Main	\$ (326.47)	Hydrant expenses reversed. Billed as Third Party Damages.
<b>January</b>	<b>\$ 27,289.87</b>	

<b>Vendor</b>	<b>Amount</b>	<b>Description</b>
Buckeye Pumps	\$ 1,755.00	Pump repair at Shull Rd pump station
Element	\$ 4,072.85	Vehicle maintenance
Martin Marietta	\$ 3,252.39	Gravel for mainbreak repair
Martin Marietta	\$ 3,391.41	Gravel for mainbreak repair

OUPS	\$	1,538.12	Monthly maintenance fee & 2021 Annual Assessment Fee for OUPS
Treasurer State of Ohio	\$	270.00	SERC for RRRWTP for 2021
Treasurer State of Ohio	\$	190.00	SERC for NRWTP for 2021
Allied Technical Services	\$	3,206.77	Apache lift station bypass
Springer Enterprises	\$	175.00	Backflow recertification at RRRWTP
Springer Enterprises	\$	55.00	Backflow recertification at Admin Office
BL Anderson	\$	1,816.36	Element tubes for chemical feed pumps
Core & Main	\$	85.64	Angle valve repair
Core & Main	\$	173.16	Sewer repair
Core & Main	\$	1,267.32	Mainbreak repair
Core & Main	\$	645.32	Mainbreak repair
Core & Main	\$	(279.73)	Hydrant expenses reversed. Billed as Third Party Damages.

February	\$ 21,614.61
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Vendor	Amount	Description
Cummins	\$ 879.01	Generator repair at St Rt 40 booster station
Element	\$ 1,361.03	Vehicle maintenance
OUPS	\$ 32.00	Monthly maintenance fee
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair at 6811 Hubbard Dr
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair at 6231 Alter Rd
Lee Shellhaas	\$ 1,100.00	Concrete repair for mainbreak repair at corner of Holbrook and Alter
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair at 6535 Menlo Way
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair at 5871 Hinckley Dr
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair
Martin Marietta	\$ 890.76	Gravel for mainbreak repair
Martin Marietta	\$ 1,578.09	Gravel for mainbreak repair
Partin Trucking Inc	\$ 455.00	Dirt hauling for mainbreak repair
Buckeye Pumps	\$ 8,120.00	Replacement pump for residual station at RRRWTP
Buckeye Pumps	\$ 5,343.00	Pump repair at Apache lift station
Towner Filtration	\$ 5,190.60	Nano filtration cartridges
Carey Electric	\$ 738.00	Troubleshoot Bellefontaine Rd lift station
Terminix	\$ 64.50	Pest control for Admin Office

Carey Electric	\$	842.00	Check and repair motor at Shore lift station
Core & Main	\$	1,535.00	Hydrant repair
Core & Main	\$	426.52	Hydrant repair
Core & Main	\$	70.22	Angle valve repair
Core & Main	\$	1,934.56	Mainbreak and water line repair
Great Lakes Service & Supplies	\$	478.34	Vehicle maintenance - for Vaccon for sewer cleaning - main line root cutter m
Carey Electric	\$	657.00	Installed new starter at Heathermere lift station
Journey	\$	1,237.50	Sewer hauling for lift station
Core & Main	\$	1,449.21	Mainbreak and angle valve repair
Gasser's Garage	\$	490.00	Hauling of mainbreak dirt from mainbreak repairs
Best One	\$	427.04	Vehicle maintenance - Backhoe tire repair
Bob Sumerel Tire Company	\$	377.64	Vehicle maintenance - Backhoe tire repair
Leach Enterprises	\$	185.15	Repair at Apache lift station

**March** **\$ 40,862.17**

<b>Vendor</b>	<b>Amount</b>	<b>Description</b>
Allied Pump	\$ 5,457.06	Apached lift station bypass
Element	\$ 1,362.09	Vehicle maintenance
Lee Shellhaas	\$ 700.00	Concrete repair for mainbreak repair at corner of Alter & Holbrook
Lee Shellhaas	\$ 2,370.00	Concrete repair for mainbreak repair at 6485 & 6489 Rolling Glen
Lee Shellhaas	\$ 1,700.00	Concrete repair for mainbreak repair at 6111 & 6105 Holbrook
OUPS	\$ 40.00	Monthly maintenance fee
Martin Marietta	\$ 3,649.99	Gravel for mainbreak repair
Buckeye Pumps	\$ 2,892.00	Pump repair - Oaks lift station
Buckeye Pumps	\$ 5,343.01	Pump repair - Apache lift station
Buckeye Pumps	\$ 3,821.00	Pump repair - Cosner lift station
Civica	\$ 6,695.00	2021 license, support and maintenance for Authority billing software
M&R Electric	\$ 32.25	Electrical parts for repair at Elysian lift station
Core & Main	\$ 1,800.74	Mainbreak repair
Core & Main	\$ 378.50	Hydrant repair
USA Bluebook	\$ 366.78	Lift station maintenance - float switches
Core & Main	\$ 157.98	Service line repair

Gasser's Garage	\$	560.00	Dirt removal from mainbreak repair
Carey Electric	\$	363.00	Replace GFCI and wire pump at RRRWTP
Core & Main	\$	(1,876.82)	Hydrant expenses reversed. Billed as Third Party Damages.

**April** **\$ 35,812.58**

Vendor	Amount	Description
Element	\$ 1,314.28	Vehicle maintenance
OUPS	\$ 40.00	Monthly maintenance fee
Paulus Lawn and Landscape LLC	\$ 532.13	Grounds maintenance at Plants
Partin Trucking Inc	\$ 595.00	Dirt hauling for mainbreak repair
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair - 6605 Alter Rd
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair - Longford and Leycross
Core & Main	\$ 273.46	Mainbreak repair
Core & Main	\$ 189.25	Hydrant repair
Core & Main	\$ 1,839.12	Mainbreak repair
DeZurik	\$ 659.81	Repair parts for filter valves
Lowe's	\$ 292.67	Sump pump for Stonehurst
Lowe's	\$ 18.22	Items for sump pump for Stonehurst
Brehob	\$ 618.91	Air compressor dryers
Leach Enterprises	\$ 428.25	Repair to Heathermere lift station
Core & Main	\$ (1,002.32)	Hydrant expenses reversed. Billed as Third Party Damages.

**May** **\$ 7,798.78**

Vendor	Amount	Description
Element	\$ 1,547.71	Vehicle maintenance
OUPS	\$ 44.00	Monthly maintenance fee
Paulus Lawn and Landscape LLC	\$ 763.25	Grounds maintenance at Plants
Towner Filtration	\$ 5,388.40	Nano filtration cartridges
Buckeye Pumps	\$ (0.01)	Pump repair - Apache lift station - overage from AP accrual
Core & Main	\$ 919.48	Mainbreak repair
Core & Main	\$ 237.07	Hydrant repair

Core & Main	\$	1,006.52	Hydrant repair
Terminix	\$	68.80	Pest control for Admin Office
Assured Automation	\$	1,820.37	Digital positioner for filter valves (valve controller) - replacement of stock
Core & Main	\$	1,304.32	Mainbreak repair at Old Troy Pk
Gasser's Garage	\$	1,597.22	Hauling of dirt from mainbreak repair at Old Troy Pk
Quality Seasons	\$	2,231.11	Hauling of dirt from mainbreak repair at Old Troy Pk
MegaCity	\$	139.75	Annual inspection of wet sprinkler system at Plant
MegaCity	\$	711.85	Annual inspection of portable fire extinguishers for Admin Office, Shop and P

<b>June</b>	<b>\$ 17,779.84</b>
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Vendor	Amount	Description
Element	\$ 6,715.08	Vehicle maintenance
Best Equipment	\$ 496.36	Vehicle maintenance - Vac truck maintenance
Core & Main	\$ 1,229.81	Mainbreak repair
Core & Main	\$ 2,454.11	Mainbreak repair at Old Troy Pk
Core & Main	\$ 2,070.65	Mainbreak repair
Groundscape Maintenance	\$ 5,500.00	Turf renovation due to mainbreak repair
Martin Marietta	\$ 1,006.41	Gravel for mainbreak repair
Martin Marietta	\$ 2,098.47	Gravel for mainbreak repair
Martin Marietta	\$ 3,563.85	Gravel for mainbreak repair
Partin Trucking	\$ 525.00	Dirt hauling for mainbreak repair
Lee Shellhaas	\$ 1,150.00	Concrete repair for mainbreak repair - 7154 Chadbourne
Lee Shellhaas	\$ 3,600.00	Concrete repair for mainbreak repair - Old Troy Pk
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair - 6800 Locustview
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair - 5434 Pitcairn
Lee Shellhaas	\$ 1,150.00	Concrete repair for mainbreak repair - 6111 Holbrook
Lee Shellhaas	\$ 1,100.00	Concrete repair for mainbreak repair - Corner of Haddon and Hemingway
Commerce Controls Inc	\$ 1,100.00	PLC card for radio telemetry
Buckeye Pumps	\$ 5,876.00	Vitek lift station pump replacement
Paulus Lawn and Landscape LLC	\$ 886.88	Grounds maintenance at Plants
OUPS	\$ 32.00	Monthly maintenance fee
Regal Plumbing & Heating Co	\$ 1,314.00	Rebuild of air relief valves
Regal Plumbing & Heating Co	\$ 4,590.00	Rebuild of air relief valves



Core & Main	\$	188.62	Water line repair
Core & Main	\$	1,475.77	Mainbreak repair
Sparling Instruments	\$	954.50	RRRWTP Well #4 totalizer
Brehob	\$	911.09	Parts for air compressors that work the valves on the pressure filters
BL Anderson	\$	850.32	Chemical feed tubes
Core & Main	\$	700.78	Mainbreak and service line repair
BestOne Tire	\$	963.49	Vehicle maintenance - Vac truck tire repair
Zoro	\$	147.53	Vehicle maintenance - Vac truck hydraulic filters
Lavy Enterprises LLC	\$	849.40	Vehicle maintenance - Repair of backhoe
Leach Enterprises	\$	150.00	Repair at Apache lift station
Pickrel Bros	\$	156.98	Pressure regulator for water
Quality Seasons	\$	2,297.55	Yard repair due to mainbreak repair
Core & Main	\$	(589.78)	Hydrant expenses reversed. Billed as Third Party Damages.

**July** **\$ 57,514.87**

<b>Vendor</b>	<b>Amount</b>	<b>Description</b>
Carey Electric	\$ 260.00	Troubleshoot controller regarding pump motor
Core & Main	\$ 2,328.21	Mainbreak repair
Core & Main	\$ 2,311.38	Mainbreak repair
Lee Shellhaas	\$ 1,000.00	Concrete repair for mainbreak repair - Charnwood and Camerford
Element	\$ 2,423.59	Vehicle maintenance
Martin Marietta	\$ 294.60	Gravel for mainbreak repair
Martin Marietta	\$ 3,039.66	Gravel for mainbreak repair
Martin Marietta	\$ 299.66	Gravel for mainbreak repair
Regal Plumbing & Heating Co	\$ 4,590.00	Rebuild of 2 air relief valves
Regal Plumbing & Heating Co	\$ 1,314.00	Rebuild of air releive valves
Neptune Technology Group	\$ 2,899.92	Annual maintenance for software, belt clip and pocket proreader
Woolace Electric Corp	\$ 949.45	RRRWTP Well #6 repair
Best Equipment	\$ 820.27	Vehicle maintenance - Vac truck repair
Best Equipment	\$ 5,567.77	Vehicle maintenance - Vac truck repair
OUPS	\$ 92.00	Monthly maintenance fee
Paulus Lawn and Landscape LLC	\$ 682.63	Grounds maintenance at Plants

Vandalia Rental	\$	2,772.37	Rental of backhoe
Leach Enterprises	\$	115.00	Repair to Oaks lift station
Pickrel Bros	\$	1,019.32	Replacement of pressure regulator (Brandt south of 70)
Core & Main	\$	1,177.34	Mainbreak, service line and angle valve repair
RD Holder	\$	705.20	Vehicle maintenance - Vac truck repair
Zoro	\$	82.81	Vehicle maintenance - Vac truck repair
SecurCom	\$	386.25	Fire alarm inspection - recertify NF building
Pickrel Bros	\$	53.60	Plumbing supplies for NF skid #3
BL Anderson	\$	935.15	Tube elements for chemical feed supply
Core & Main	\$	32.85	Gasket for Vitek lift station
EJP	\$	345.61	Hydrant repair

<b>August</b>	<b>\$</b>	<b>36,498.64</b>	
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<b>Grand Total</b>	<b>\$</b>	<b>245,171.36</b>	
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<i>Main Breaks</i>	<i>\$</i>	<i>101,783.94</i>	
<i>Vehicle Maintenance</i>	<i>\$</i>	<i>34,534.11</i>	
<i>Lift Stations</i>	<i>\$</i>	<i>46,513.36</i>	
<i>Hydrants</i>	<i>\$</i>	<i>1,322.95</i>	
<i>Plants</i>	<i>\$</i>	<i>49,335.45</i>	
<i>Misc</i>	<i>\$</i>	<i>11,681.55</i>	
<b>YTD Total</b>	<b>\$</b>	<b>245,171.36</b>	

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

TO INCREASE THE NOT TO EXCEED MAINTENANCE CONTRACT AMOUNT AND  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT MODIFICATION  
WITH SUEZ WATER ENVIRONMENTAL SERVICES, INC.

WHEREAS, Suez Water Environmental Services, Inc. has operated the City's water and wastewater  
systems since September 29, 1995; and

WHEREAS, the City Charter requires that City Council approve all work performed by a single  
contractor in excess of \$25,000.00 in any given year; and

WHEREAS, the City has determined to increase the not to exceed amount of the contract to pay the  
auditors fees for this year's audit outside the contract and also to allow the company to perform  
additional work for the City due to emergency measures and additional services as needed, without  
delay; and

WHEREAS, City Council agrees that it is prudent and cost effective to increase Suez Water  
Environmental Services, Inc. contract to allow the company to perform additional work for the City due to  
emergency measures and additional services as needed, without delay.

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

Section 1. The City Manager is hereby authorized to enter into a contract modification to increase  
the maintenance contract amount for Suez Water Environmental Services, Inc. by \$160,000.00 for a  
new total of \$341,892.26.

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  
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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

AI-7835

**New Business     Q.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 09/13/2021

Baseball Field Maintenance Contract

**Submitted By:** Josh King

**Department:** Planning

**Division:**

Parks and Recreation

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

**Date(s) of Committee Review:** 09/07/2021

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

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

---

**Agenda Item Description or Legislation Title**

A Resolution Authorizing The City Manager To Enter Into A Contract For Baseball Field Renovation At Thomas Cloud Park And Monita Field Park And Waiving The Competitive Bidding Requirements.  
(first reading)

**Purpose and Background**

Three City baseball fields at Thomas Cloud Park and Monita Field Park are in need of maintenance. Two quotes were received and no other companies were willing to provide quotes. The overall cost for the renovations and maintenance of the three baseball fields exceeds \$25,000, so the legislation attached is requesting to waive the competitive bidding requirements. This project was funded in the current City Budget.

---

**Fiscal Impact**

**Source of Funds:** Parks and Recreation Fund

**Cost:** N/A

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

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

**Financial Implications:**

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**Attachments**

Quotes

Resolution

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5062 Bantas Creek  
West Alexandria, OH 45381  
(937) 839-LAWN

Estimate No.

5164

## ESTIMATE

### Customer

Name City of Huber Heights: Thomas Cloud Field #1  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone \_\_\_\_\_

Date 5/7/2021

Order No. \_\_\_\_\_

Qty	Description	Unit Price	TOTAL
1	Field renovation of Field #1 Remove all bases/plate/pitching rubber Sod cut all existing infield grass to about 4' from foul lines and remove Sod cut outfield arc to approximately 4' further than existing arc to remove lip and make symmetrical Till in new topsoil and grade to proper slope to prepare for new sod Lay new turf type tall fescue large roll sod in infield Roll with 1.5 ton roller to lightly compact and crimp edges Apply starter fertilizer to new sod Incorporate 20 tons of Alvis Infield mix and 20 tons of Washington Ball Mix into skinned infield and grade to proper slope using professional dual slope laser grade machine. Roll to compact using 1.5 ton roller Incorporate/topdress 4 tons of Turface MVP infield conditioner Install new pitcher's mound at correct height and distance. (new rubber, mound blocks, mound clay) Install new home plate using clay blocks and pro mound clay in batters' boxes and install new bases at 90'	\$17,900.00	\$17,900.00
		SubTotal	\$17,900.00
		Taxes State	\$0.00
		<b>TOTAL</b>	<b>\$17,900.00</b>

☐  
☐  
☐

Office Use Only

THANKS FOR YOUR BUSINESS!

"Victory Will Look Its Best"



5062 Bantas Creek  
West Alexandria, OH 45381  
(937) 839-LAWN

Estimate No.

5165

## ESTIMATE

### Customer

Name City of Huber Heights- Monita Fields  
Address 5001 Fishburg Rd  
City Huber Heights State OH ZIP 45424  
Phone

Date 5/11/2021  
Order No.

Qty	Description	Unit Price	TOTAL
1	Renovate fields 1 and 2 at Monita Park Total kill both fields (round up) and remove vegetation Cut outfield arcs to correct depth and to help remove lips, replace arc with new large roll sod to make clean, symmetrical edge Incorporate 40 tons of Alvis Infield Mix into skinned infields (80 tons total) Roll to compact using 1.5 ton roller Laser grade skinned infields to correct grade/slope using professional dual slope laser grade machine Incorporate 4 tons of Turface Infield Conditioner into both skinned infields (8 tons total) Replace pitching rubbers and home plates and set new bases at desired length Rebuild mound to correct distance/height/slope on larger field Roll to compact skinned infields, nail drag, and finish drag	\$19,500.00	\$19,500.00
SubTotal			\$19,500.00
Taxes State			\$0.00
TOTAL			\$19,500.00



Office Use Only

THANKS FOR YOUR BUSINESS!

"Victory Will Look Its Best"



ATHLETIC FIELD CONTRACTORS

[www.mercer-group.com](http://www.mercer-group.com)  
TROY, OHIO

*Your Sports Field Specialists*



**Mercer Group, Inc.**  
P.O. Box 771 • Troy, Ohio 45373  
Phone 937.335.7100 • Fax 937.335.3344  
www.mercer-group.com



**ATHLETIC FIELD CONTRACTORS**  
www.mercer-group.com  
TROY, OHIO

## Estimate/Contract Proposal

### CUSTOMER INFORMATION

City of Huber Heights  
Josh King

DATE

ESTIMATE NO.

3/15/2021

1857

ITEM	DESCRIPTION	QTY	COST	TOTAL COST
	Cloud Park - Field 1			
Veg. Co...	Vegetation/Round-Up Control	1	180.00	180.00T
Topo Su...	Use Laser Instrument to calculate grade slopes of Skinned Infield surface.	1	195.00	195.00T
Infield Lip	Infield Lip/Interface Removal	1	695.00	695.00T
Laser Gr...	Laser Grade/Level Skinned Infield with auto-grade master machine controlled box grader.	1	1,250.00	1,250.00T
Pitchers ...	Re-build/Re-define mound.	1	960.00	960.00T
Infield Mix	Processed Skinned Infield Ball Diamond Mix. Cost Includes Delivery, Placement on Sports Field, and Rough Grading. 100 Tons	1	6,250.00	6,250.00T
Roll/Co...	Vibratory Compact Skinned Infield Soils.	1	275.00	275.00T
Surface	Surface Type Soil Amendment. 3 Tons	3	650.00	1,950.00T
Sod	Install Big Roll Sports Turf Blend Sod. Sod back where lips were removed. Sod first and third base paths. (see drawing)	1	7,650.00	7,650.00T
Base/HP...	Bases, Base Anchors, Home Plate, Pitching Rubber, supply and install	1	995.00	995.00T
Mobiliza...	Mobilization of equipment to and from site to perform project.	1	475.00	475.00T
	Tax Ex.		0.00	0.00

TERMS: All accounts unpaid after 30 days from date of invoice will be charged a FINANCE CHARGE of 2% per month which is an ANNUAL PERCENTAGE RATE of 24%.

**TOTAL COST** \$20,875.00

MERCER GROUP, INC. and its employees are covered by general liability and workers' compensation insurance as required by Ohio law. MERCER GROUP, INC. is a certified Drug Free Workplace Company. MERCER GROUP, INC. workforce is OSHA certified.

*Bm*  
Troy S. Mercer, Vice President





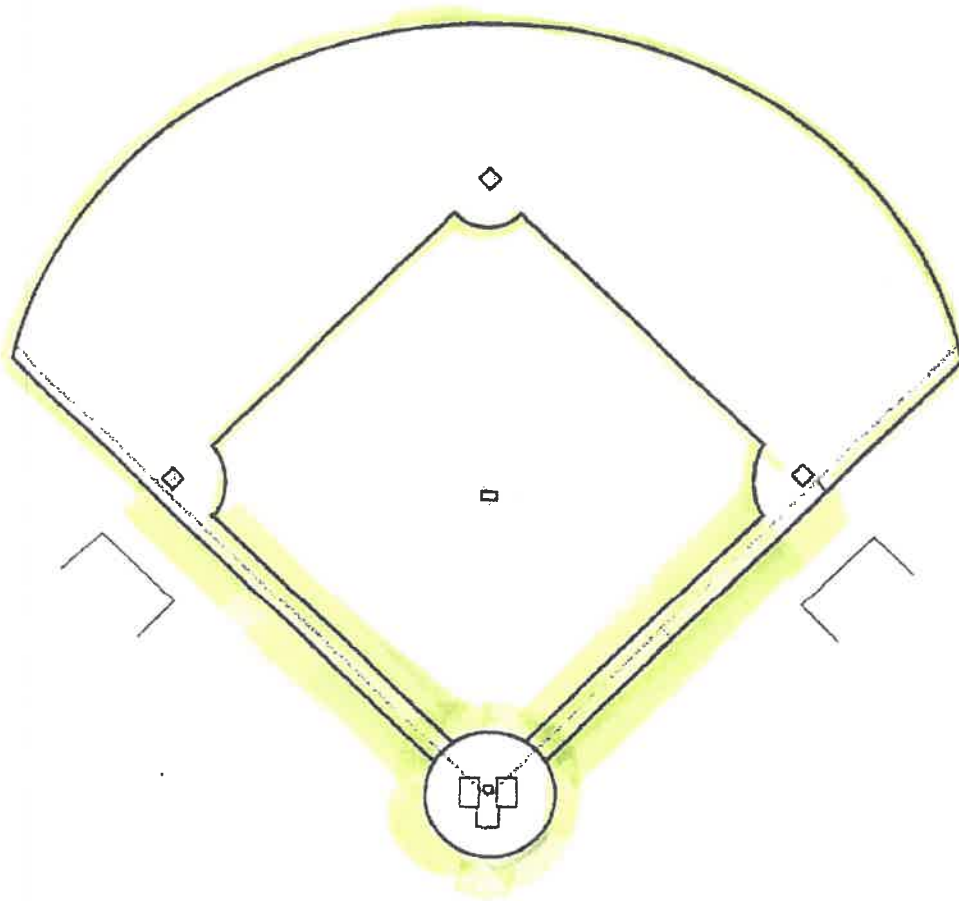
ATHLETIC FIELD CONTRACTORS

P O BOX 771, TROY, OH 45373 (937) 335-7100

School Name: CLOUD PARK

Field Name: 1

Date: 3-15-2021



Job Notes:

Attach with estimate # 1857



PROPOSED NEW SOD

SOD ENTIRE BASE PATH

**Mercer Group, Inc.**  
P.O. Box 771 • Troy, Ohio 45373  
Phone 937.335.7100 • Fax 937.335.3344  
www.mercer-group.com



**ATHLETIC FIELD CONTRACTORS**  
www.mercer-group.com  
TROY, OHIO

## Estimate/Contract Proposal

CUSTOMER INFORMATION
City of Huber Heights Josh King

DATE	ESTIMATE NO.
3/15/2021	1858

ITEM	DESCRIPTION	QTY	COST	TOTAL COST
	Monita Park - Smaller field (East)			
Veg. Co...	Vegetation/Round-Up Control	1	135.00	135.00T
Topo Su...	Use Laser Instrument to calculate grade slopes of Skinned Infield surface.	1	195.00	195.00T
Infield Lip	Infield Lip/Interface Removal	1	525.00	525.00T
Laser Gr...	Laser Grade/Level Skinned Infield with auto-grade master machine controlled box grader.	1	995.00	995.00T
Infield Mix	Processed Skinned Infield Ball Diamond Mix. Cost Includes Delivery, Placement on Sports Field, and Rough Grading. 60 Tons	1	3,750.00	3,750.00T
Roll/Co...	Vibratory Compact Skinned Infield Soils.	1	275.00	275.00T
Surface	Surface Type Soil Amendment. 2 Tons	2	650.00	1,300.00T
Sod	Install Big Roll Sports Turf Blend Sod. Sod back where lips were removed in apron area. (see drawing)	1	1,500.00	1,500.00T
Base/HP...	Bases, Base Anchors, Home Plate, Pitching Rubber, supply and install	1	995.00	995.00T
Mobiliza...	Mobilization of equipment to and from site to perform project.	1	475.00	475.00T
	Tax Ex.		0.00	0.00

TERMS: All accounts unpaid after 30 days from date of invoice will be charged a FINANCE CHARGE of 2% per month which is an ANNUAL PERCENTAGE RATE of 24%.

**TOTAL COST \$10,145.00**

MERCER GROUP, INC. and its employees are covered by general liability and workers' compensation insurance as required by Ohio law. MERCER GROUP, INC. is a certified Drug Free Workplace Company. MERCER GROUP, INC. workforce is OSHA certified.

*TSM*  
Troy S. Mercer, Vice President



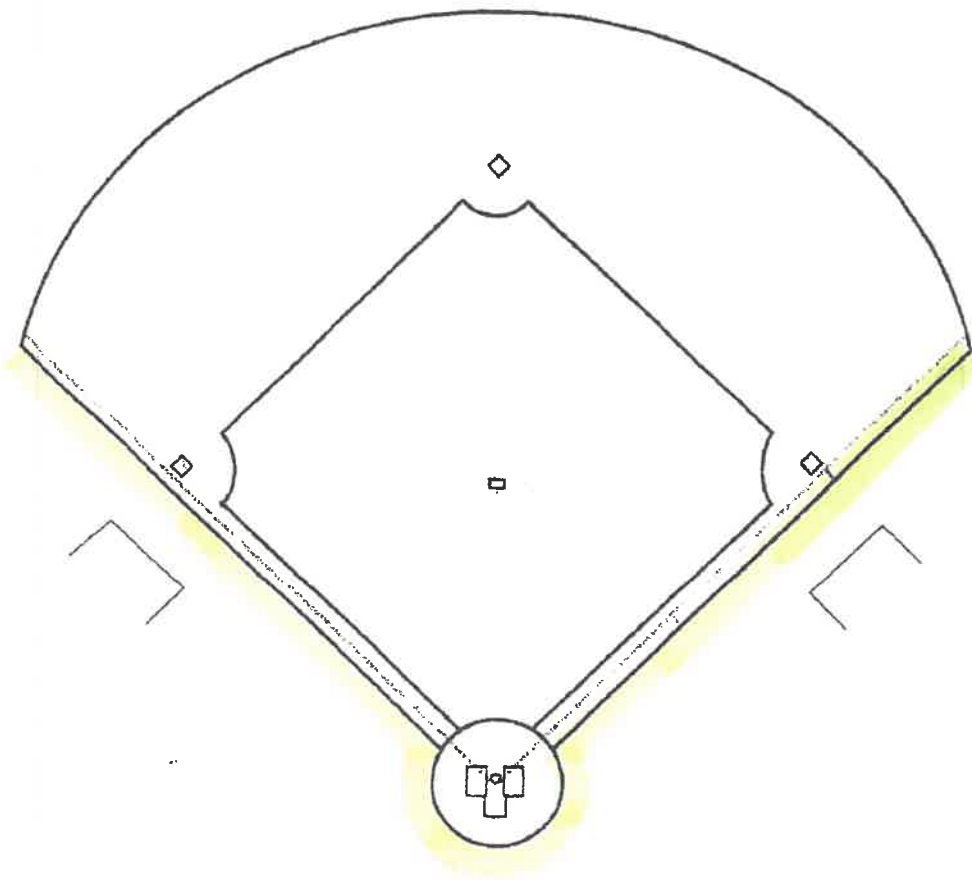
ATHLETIC FIELD CONTRACTORS

P O BOX 771, TROY, OH 45373 (937) 335-7100

School Name: MONITA PARK

Field Name: SMALLER FIELD (EAST)

Date: 3-15-2021



Job Notes:

Attach with estimate # 1858



PROPOSED NEW SOD

**Mercer Group, Inc.**  
P.O. Box 771 • Troy, Ohio 45373  
Phone 937.335.7100 • Fax 937.335.3344  
www.mercer-group.com



ATHLETIC FIELD CONTRACTORS  
www.mercer-group.com  
TROY, OHIO

## Estimate/Contract Proposal

### CUSTOMER INFORMATION

City of Huber Heights  
Josh King

DATE

ESTIMATE NO.

3/15/2021

1859

ITEM	DESCRIPTION	QTY	COST	TOTAL COST
	Monita Park - Larger Field (West)			
Veg. Co...	Vegetation/Round-Up Control	1	165.00	165.00T
Topo Su...	Use Laser Instrument to calculate grade slopes of Skinned Infield surface.	1	195.00	195.00T
Infield Lip	Infield Lip/Interface Removal	1	595.00	595.00T
Laser Gr...	Laser Grade/Level Skinned Infield with auto-grade master machine controlled box grader.	1	1,100.00	1,100.00T
Infield Mix	Processed Skinned Infield Ball Diamond Mix. Cost Includes Delivery, Placement on Sports Field, and Rough Grading. 70 Tons	1	4,375.00	4,375.00T
Roll/Co...	Vibratory Compact Skinned Infield Soils.	1	275.00	275.00T
Surface	Surface Type Soil Amendment. 3 Tons.	3	650.00	1,950.00T
Sod	Install Big Roll Sports Turf Blend Sod. Sod back where lips were removed in apron area. (see drawing)	1	2,700.00	2,700.00T
Base/HP...	Bases, Base Anchors, Home Plate, Pitching Rubber, supply and install	1	995.00	995.00T
Mobiliza...	Mobilization of equipment to and from site to perform project.	1	475.00	475.00T
	Tax Ex.		0.00	0.00

TERMS: All accounts unpaid after 30 days from date of invoice will be charged a FINANCE CHARGE of 2% per month which is an ANNUAL PERCENTAGE RATE of 24%.

**TOTAL COST** \$12,825.00

MERCER GROUP, INC. and its employees are covered by general liability and workers' compensation insurance as required by Ohio law. MERCER GROUP, INC. is a certified Drug Free Workplace Company. MERCER GROUP, INC. workforce is OSHA certified.

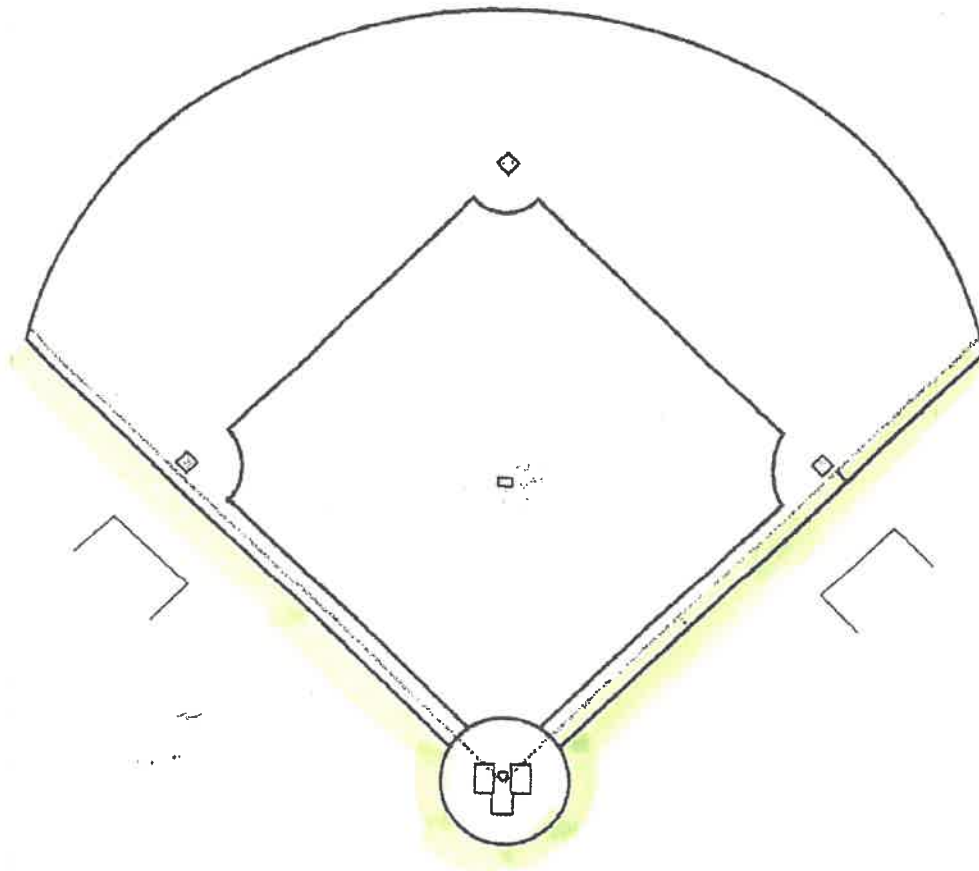
*BM*  
Troy S. Mercer, Vice President



ATHLETIC FIELD CONTRACTORS

P O BOX 771, TROY, OH 45373 (937) 335-7100

School Name: MONITA PARK  
Field Name: LARGER FIELD (WEST)  
Date: 3-15-2021



Job Notes:

Attach with estimate # 1859



PROPOSED NEW SOD





ATHLETIC FIELD CONTRACTORS  
www.mercer-group.com  
TROY, OHIO

### University and College Field References

The Ohio State University Softball Fields, Columbus, OH  
Ohio University Baseball & Football, Athens, OH  
Miami University Baseball & Football, Oxford, OH  
Urbana University Baseball, Urbana, OH  
West Virginia State University Baseball  
University of Cincinnati Baseball, Cincinnati, OH  
University of Cincinnati Practice Football Fields, Cincinnati, OH  
Ohio Christian University Baseball, Circleville, OH  
University of Dayton Baseball, Softball & Soccer Fields, Dayton, OH  
Edison College Baseball, Piqua, OH  
Wright State University Softball, Fairborn, OH

### Football Field References

Troy Memorial Stadium, Troy, OH  
Troy "Bob Ferguson" Field, Troy, OH  
Lima Stadium, Lima, OH  
Waynesville High School, Waynesville, OH  
Middletown Bishop Fenwick High School, Middletown, OH  
Valley View High School, Germantown, OH  
Versailles High School, Versailles, OH  
Troy Christian High School, Troy, OH  
Dixie (New Lebanon) High School, New Lebanon, OH  
Stebbins High School, Riverside, OH  
Cincinnati Hills Christian Academy High School, Cincinnati, OH  
Brookville High School, Brookville, OH  
Miami East High School, Casstown, OH

### Baseball and Softball Field References

The Ohio State University Softball Fields, Columbus, OH  
University of Dayton Softball, Dayton, OH  
Mechanicsburg High School Baseball and Softball, Mechanicsburg, OH  
City of Mason Sports Park, Mason, OH  
New Bremen High School Baseball and Softball, New Bremen, OH  
City of St. Marys Park District, St. Marys, OH  
Mason High School Baseball and Softball, Mason, OH  
Fort Loramie High School Baseball, Fort Loramie, OH  
Wright Patterson Air Force Base Softball Complex, Dayton, OH  
Centerville High School Softball, Centerville, OH  
Northmont High School Softball, Englewood, OH  
Sidney High School Baseball, Sidney, OH  
Edison College Baseball, Piqua, OH  
Lima Sr. High School, Lima, OH  
Newton High School, Pleasant Hill, OH  
Parkway High School, Rockford, OH

### Soccer Field References

Warrior Soccer Club Practice and Training Facility, Huber Heights, OH  
Yellow Springs Soccer Association, Yellow Springs, OH  
City of Troy Duke Park Soccer Fields, Troy, OH  
University of Dayton Soccer, Dayton, OH  
Piqua Wertz Stadium, Piqua, OH  
City of Sharonville Soccer Field, Sharonville, OH  
Franklin Monroe High School, Pittsburg, OH  
Dayton Dutch Lions, West Carrollton, OH

**SportsTurf**  
MANAGERS ASSOCIATION  
Experts on the Field. Partners in the Game

Past Customer's that have used  
Mercer Group, Inc. for Sports Field  
Improvements.

City of Springdale  
Greenville High School  
West Carrollton Schools  
Grove City High School  
Twin Valley High School  
Miami East High School  
Xenia High School  
Miami Valley School  
Huber Heights Wayne High School  
Covington OH Schools  
Arcanum High School  
Grandview Schools  
Tecumseh Schools  
Northeastern High School  
Olentangy High School  
Dayton Dragons Baseball  
Dixie Heights High School, KY  
Mississinawa High School  
West Virginia State University  
Urbana University  
Seneca East Local Schools  
Wright Patterson AFB Softball  
University of Dayton  
Milton Union High School  
Northridge High School  
Stebbins High School  
City of Troy Parks  
Tippecanoe High School  
Northmont High School  
Centerville High School  
Valley View Schools  
Delaware Hayes High School  
Troy Christian Schools  
Middletown Bishop Fenwick High School  
Versailles High School  
City of Tipp City Parks  
Columbus Academy  
Patterson Park Baseball  
Village of Botkins, OH  
City of St. Bernard Parks  
Orange High School  
City of Lebanon Parks  
Hamilton City Schools  
City of Brookville Parks  
Trotwood Madison High School  
Sidney High School  
Newton High School  
Cincinnati Sycamore Schools  
Troy High School  
City of Richmond, IN  
Oakwood High School  
Piqua City Schools  
Vandalia Butler High School  
Miami University  
Kenton Ridge High School  
Washington Courthouse High School  
Liberty High School  
Kettering Fairmont High School  
Hilliard Davidson High School  
Monroe High School  
Lakota East Schools  
Mason High School  
City of Mason Parks  
Bethel Schools  
Brookville High School  
Mechanicsburg High School  
Tri County North High School  
Otsego High School  
Newton Schools  
City of Sidney  
Springfield High School

CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2021-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR BASEBALL FIELD RENOVATION AT THOMAS CLOUD PARK AND MONITA FIELD PARK AND WAIVING THE COMPETITIVE BIDDING REQUIREMENTS.

WHEREAS, Baseball Field 1 at Thomas A. Cloud Park and Baseball Fields 1 and 2 at Monita Field Park are in need of renovation; and

WHEREAS, the cost of the project will be in excess of \$25,000; and

WHEREAS, two written quotes were obtained for said work; and

WHEREAS, the City Council may waive the competitive bidding requirements whenever it deems to be in the best interest of the City to do so as defined in Section 171.12 of the Codified Ordinances of the City of Huber Heights.

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

Section 1. The City Manager is hereby authorized to contract with Mercer Group, Inc. for renovation services for baseball fields at Thomas Cloud Park and Monita Field Park in an amount not to exceed \$45,000.00.

Section 2. Consistent with the provisions of the City Charter and the Huber Heights Codified Ordinances, the competitive bidding requirements are hereby waived.

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 \_\_\_\_\_, 2021;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date