CITY OF HUBER HEIGHTS
STATE OF OHIO

City Council Work Session

July 16, 2024
6:00 P.M.
City Hall - Council Chambers - 6131 Taylorsville Road - Huber Heights, Ohio

1. **Call Meeting To Order/Roll Call**

2. **Approval Of Minutes**

   A. July 2, 2024

3. **Work Session Topics Of Discussion**

   A. City Manager Report

   B. Charter Review Commission - Proposed City Charter Amendments

   C. Property Maintenance Review Board Update

   D. City Staffing Levels/Table Of Organization

   E. City Salary Ranges/Wage Levels

   F. 2024 Sidewalk Program - Ordinance Of Assessment

G. 2025 Sidewalk Program - Resolution Of Necessity

H. Issuance Of Notes - Renewal - $1,662,000

I. Design Contract - App Architecture - Fire Station 23

J. City Parks - Roofing Projects/Increase Not To Exceed Amount - Maxim Roofing

K. Thomas Cloud Park - Improvements/Splash Pad - Request For Proposals (RFP)

L. Donation Of Real Property - Executive Boulevard

M. Title Sponsorship - The Big Hoopla's Hometown Heroes Military Appreciation Night

N. Annexation Update

4. **Adjournment**

AI-10212 **Topics Of Discussion** **B.**

Council Work Session

Meeting Date: 07/16/2024

Charter Review Commission - Proposed City Charter Amendments

Submitted By: Anthony Rodgers

Department: City Council

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/02/2024 and 07/16/2024

Audio-Visual Needs: None **Emergency Legislation?:** Yes

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Charter Review Commission - Proposed City Charter Amendments

Purpose and Background

The City Council is considering amendments to the Huber Heights City Charter to submit to the electorate for approval at the November 5, 2024 general election based on the unanimous recommendations of the Charter Review Commission. This ordinance must be adopted by the July 22, 2024 City Council Meeting in order to meet the filing deadline for the Boards of Elections.

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:	

Attachments

Ordinance

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2024-O-

APPROVING CERTAIN RECOMMENDATIONS OF THE HUBER HEIGHTS CHARTER REVIEW COMMISSION AND DIRECTING THE BOARDS OF ELECTIONS OF MONTGOMERY COUNTY, OHIO AND MIAMI COUNTY, OHIO TO PLACE ON THE BALLOT AT THE AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, IN THE CITY OF HUBER HEIGHTS, THE QUESTION OF AMENDING SECTIONS 4.03, 4.04, 4.12, 5.08, 5.12, 6.01, 9.07, AND 13.08 OF THE CITY CHARTER, AND DECLARING AN EMERGENCY.

WHEREAS, the people of the City of Huber Heights approved the City Charter at the regular municipal election on November 8, 1983 and the City Charter became effective January 1, 1984; and

WHEREAS, the Huber Heights City Council appointed a Charter Review Commission for the purpose of reviewing the City Charter and advising City Council of any proposed changes; and

WHEREAS, the Huber Heights Charter Commission has submitted its written recommendations to City Council; and

WHEREAS, City Council has found it desirable and in the best interest of the City to propose certain amendments to the City Charter based on the findings of the Charter Review Commission; and

WHEREAS, it is necessary pursuant to the City Charter of the City of Huber Heights to secure the approval of the majority of the electors voting upon the question of amending the City Charter.

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

Section 1. The question of amendment of Section 4.03 – Eligibility of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The City Charter Section 4.03 as amended, shall read as follows:

SECTION 4.03 ELIGIBILITY.

Candidates for the offices of Councilmember and Mayor shall be qualified electors of the City at the time of filing their nominating petitions, shall have maintained their residency in the City at least one (1) year immediately preceding the election, and shall maintain residency during their term of office. Candidates for the offices of Councilmember to be elected by districts shall have resided in their respective districts for at least one year immediately preceding the election and shall maintain such residency during their term of office. Councilmembers, including the Mayor, who cease to meet the preceding eligibility requirements during their term of office shall forfeit their offices pursuant to Section 13.08 of this Charter. To be eligible as a candidate for the office of Councilmember or Mayor, an individual shall not be holding the office of Councilmember or Mayor at the time of filing their nomination petition, unless the petitioner is in the last year of their then current term.

Section 2. The question of amendment of Section 4.04 – Mayor and Vice Mayor of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The proposed change to Section 4.04 shall only be effective if the proposed changes to Sections 4.12 and 5.12 of the City Charter as set forth in Section 3 and Section 4 of this Ordinance are also approved by the voters. The City Charter Section 4.04 as amended, shall read as follows:

SECTION 4.04 MAYOR AND VICE MAYOR.

(A) Mayor. Beginning with the regular municipal election to be held in 1985, the Mayor shall be elected by separate ballot from the City at large for a four (4) year term of

office. The Mayor shall be a member of Council. The Mayor shall have a right to vote as a member of Council, but shall have no veto power.

In addition to the powers, rights and duties as a member of Council as provided under this Charter, the Mayor shall preside at meetings of Council, and shall be recognized as head of the City Government for all ceremonial and non-administrative purposes, and by the Governor for military purposes. The Mayor shall have judicial powers and the other powers and privileges to which Mayors are entitled under general law and the Constitutions of the State of Ohio, provided such other powers and privileges are consistent with the provisions of this Charter. The Mayor shall also exercise those powers and perform such duties as described by ordinance or by resolution of Council, consistent with the provisions of this Charter.

(B) *Vice Mayor.* Council shall, at the first regular meeting in January following its election and every year thereafter, choose, by a vote of no less than five (5) members of Council, one of its members as Vice Mayor, who shall act as Mayor during the absence or disability of the Mayor. If a vacancy in the Mayor's office occurs, the Vice Mayor shall serve as Mayor until the next regular municipal election. At such election a Mayor shall be elected to serve for the unexpired or a full term, as appropriate. At least ten (10) days prior to the date for filing for the office of Mayor at such election, the Vice Mayor who assumed the office of Mayor shall file with the Clerk of Council a written statement indicating whether such person will become a candidate for Mayor at such election or will reassume office of Councilmember, and such person shall be bound by such decision. If such decision is made in favor of reassuming the office of Councilmember, then upon the election of a Mayor and upon assumption of the office by the person so elected, the Vice Mayor shall reassume the office previously held as councilmember for the remainder of the unexpired term to which elected. In the event of a vacancy in the office of Mayor whereby the Vice Mayor assumes the office of Mayor under this Section, the Council shall select a person to fill the vacancy in Council as provided in Section 4.07 of this Charter; however, the person so chosen to fill the vacancy in Council shall serve only until a Mayor is elected as provided herein, if the Vice Mayor elects to reassume office as a councilmember for the remainder of the unexpired term as provided for in this Section.

Section 3. The question of amendment of Section 4.12 – Quorums and Majority Votes of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The proposed change to Section 4.12 shall only be effective if the proposed changes to Sections 4.04 and 5.12 of the City Charter as set forth in Section 2 and Section 4 of this Ordinance are also approved by the voters. The City Charter Section 4.12 as amended, shall read as follows:

SECTION 4.12 QUORUMS AND MAJORITY VOTES.

A quorum of Council shall be present to conduct official business. Five (5) members of Council shall constitute a quorum. Faced with the lack of quorum, a smaller number of such members of Council may convene, and may compel the attendance of absent members in the manner, and subject to the penalties prescribed by ordinance or resolution, and may adjourn meetings to a subsequent date. In determining a majority vote, a two-thirds (2/3) vote, or a three-fourths (3/4) vote, the nine members of Council, including the Mayor, shall be counted in arriving at the total membership of the Council.

Section 4. The question of amendment of Section 5.12 – Mayor's Veto of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The proposed change to Section 5.12 shall only be effective if the proposed changes to Sections 4.04 and 4.12 of the City Charter as set forth in Section 2 and Section 3 of this Ordinance are also approved by the voters. The City Charter Section 5.12 as amended, shall be removed in its entirety:

~~SECTION 5.12 MAYOR VETO.~~

~~Every ordinance or resolution of Council shall, before it goes into effect, be presented to the Mayor for approval except (i) those ordinances or resolutions enacted as a result of the Mayor's casting the deciding vote, and (ii) those enacted by a vote of at least two-thirds (2/3) majority of Council. The Mayor, if he approves such ordinance or resolution,~~

~~shall sign and return it forthwith to the Clerk of Council. If the Mayor does not approve the ordinance or resolution, he shall return it after its passage or adoption, with his objections in writing, to the Council at the next regular meeting of the Council. The Mayor's written objections shall be entered upon the journal of the Council. The Mayor may approve or disapprove the whole or any item of an ordinance or resolution appropriating money. If he does not return such ordinance or resolution with written objections within the time limited in this Section, it shall take effect in the same manner as if he had signed it, unless the Council, by adjournment, prevents its return. When the Mayor disapproves an ordinance or resolution, or any part thereof, and returns it as herein provided with his written objections, the Council may reconsider it no later than the next regularly scheduled Council meeting, and if such ordinance or resolution upon such reconsideration is approved by a two-thirds (2/3) vote of the members of Council then holding office, it shall take effect as if signed by the Mayor. If Council does not reconsider the Mayor's veto as herein provided, the content of the legislation in question may be considered thereafter in the same way all new legislation is considered. (Amended May 2, 2017)~~

Section 5. The question of amendment of Section 5.08 – Authentication and Recording; Review, Codification; and Reproduction of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The City Charter Section 5.08 as amended, shall read as follows:

SECTION 5.08 AUTHENTICATION AND RECORDING; REVIEW, CODIFICATION; AND REPRODUCTION.

(A) *Authentication and Recording.* Each ordinance or resolution of the Council shall be authenticated by the Clerk of Council's signature and the signature of the presiding officer of the Council. The Clerk shall record in full, in a properly indexed journal or other record kept for that purpose, all ordinances and resolutions adopted by Council.

(B) *Codification.* Within three (3) years after adoption of this Charter, and at least every ten (10) years thereafter, the Council shall be charged to consider providing a codification or recodification of the City ordinances and resolutions of a general and permanent nature. The codification or recodification may be adopted by Council and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, and including any pertinent provisions as Council may specify of: the Ohio Constitution and other laws of the State of Ohio, codes of technical regulations and other rules and regulations; or other pertinent supplementary materials. This compilation shall be known and cited officially as the "Huber Heights City Code" or the "City Code". Copies of the City Code shall be furnished to City officers, placed in public City offices for free public reference, and made available for purchase by the public at a price determined by the Council. The City Code may contain new matter therein, shall be adopted by a majority vote of the members of the Council then holding office, and shall become effective immediately upon its adoption by the Council. The Clerk of Council shall cause a notice of the proposed adoption or any recodification thereof by the Council to be published by posting the notice for at least ten (10) days prior to Council's adoption thereof on the City's website and in not less than three (3) public spaces within the City, as such public places are determined by the Council. A current service supplementing the City Code shall be maintained in the manner prescribed by the Council.

(C) *Copies of Ordinances and Resolutions.* The Clerk of Council shall provide copies of this Charter and amendments thereto and copies of ordinances and resolutions adopted by the Council to persons requesting such copies at reasonable costs as determined by the Council.

(D) *Review.* Within two (2) years after the adoption of this Charter, and at least every ten (10) years thereafter, the Council shall appoint an Ordinance Review Commission of not less than seven (7) electors of the City. It shall be the duty of the Commission to review the City Code, if one exists, and other ordinances or resolutions of the City, and to make recommendations to the Council for the elimination or revision of provisions of the City Code and other ordinances and resolutions which may, in the opinion of the Commission, have outlived their usefulness or practicality. The Commission shall submit its report to Council within one (1) year after its appointment. The Council may take any

action, in its discretion, as it deems warranted with respect to the recommendations of the Commission.

Section 6. The question of the addition of Section 6.01 – Appointment; Qualifications; Compensation" to the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The City Charter Section 6.01 shall read as follows:

SECTION 6.01 APPOINTMENT; QUALIFICATIONS; COMPENSATION.

Council, by an affirmative vote of no fewer than five (5) members, shall appoint a City Manager (referred to in this Charter as the "City Manager" or "Manager") for an indefinite period of time and shall fix the compensation of the Manager. The Manager shall be appointed on the basis of executive and administrative qualifications. At the time of appointment, residency of the Manager will be dependent on existing Ohio State Law and as negotiated by Council.

Section 7. The question of amendment of Section 9.07 – Removal of Board or Commission Member of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The proposed change to Section 9.07 shall only be effective if the proposed changes to Sections 13.08 of the City Charter as set forth in Section 8 of this Ordinance are also approved by the voters. The City Charter Section 9.07 as amended, shall read as follows:

SECTION 9.07 REMOVAL OF BOARD OR COMMISSION MEMBER.

By an affirmative vote of five (5) members of Council at a regular meeting, Council may remove any member of a board or commission for lack of qualifications, incompetency, misconduct, neglect of duty, or unexcused absences from any three (3) meeting of the board or commission on which such person serves. The reasons for removal shall be stated in writing and said member shall be given an opportunity to be heard at a regular meeting of Council. Action of the Council shall be final.

Section 8. The question of amendment of Section 13.08 – Removal of Official of the Charter of the City of Huber Heights is to be submitted to a vote of the qualified voters of the City. The proposed change to Section 13.08 shall only be effective if the proposed changes to Sections 9.07 of the City Charter as set forth in Section 7 of this Ordinance are also approved by the voters. The City Charter Section 13.08 as amended, shall read as follows:

SECTION 13.08 REMOVAL OF OFFICIAL.

(A) The Mayor and Councilmembers shall be removed for cause as provided in this Section of the Charter.

(B) As used in this Section of the Charter, the "Charging Official" shall mean: the "Mayor" except where the person accused of a grounds for removal is the person holding the office of Mayor; or the "Vice Mayor" where the person sought to be removed for cause holds the office of Mayor.

(C) The Charging Official having reason to believe there is probable cause (as such causes are defined in this Section) for the removal of the Mayor or Councilmember, shall give notice of the alleged cause for removal and the time, date and place of the commencement of hearing for removal, which shall not be earlier than ten (10) days after the service of the notice to the accused person by personal service, certified mail, or by leaving a copy of such notice at the person's last known place of residence in the City. At such time, date and place and at any adjourned meetings, the Council shall hear, provide an opportunity to the accused person to be heard and present defenses, and determine whether the accused person shall be removed from office. The Council shall remove an official for any of the following causes by a two-thirds (2/3) vote of the Councilmembers then holding office, provided that if the accused person is the Mayor or a Councilmember, such person shall not vote on any matter during the removal procedure and shall not be counted in determining required majorities:

(1) Failure to possess or maintain the qualifications of the office prescribed by this Charter;

(2) Intentional violation of the prohibitions set forth in Section 4.06 of this Charter;

(3) Conviction of a felony; or

(4) Violation of any expressed provision of the Charter; or

(5) Unexcused absences from any three (3) regular meetings of the Council. An absence from a regular meeting may be excused by a majority vote of the members of the Council then holding office; such absence may be excused at any time, including the excusing of any absence after action is initiated but prior to the commencement of hearings for the person's removal under this Section.

(D) Upon the removal of an official from office pursuant to this Section, the office of the offending person shall be vacant, subject to any appeal to and review by an appropriate court, and the vacancy shall be filled as provided in this Charter.

(E) The removal of an official or the occurrence of any of the causes permitting the removal shall not invalidate any official action of the Council in which the member participated. The subsequent removal of a person who fills a vacancy created pursuant to this Section by the reinstatement by a court of a person previously removed by the Council, shall not invalidate any action of the person who filled the vacancy or the Council in which such person who filled the vacancy participated.

(F) The Council shall be the judge of the grounds for removal from office and shall conduct the proceedings relative to removal. The Council shall have the power to subpoena witnesses, administer oaths and require the producing of evidence, either on its own motion or through the process of any appropriate court or officer thereof. A person charged with conduct constituting grounds for removal from office shall be entitled to a public hearing on demand, but in any case, a record of the proceedings shall be made and preserved. If a public hearing is demanded, a notice of such hearing shall be published by posting the notice for at least seven (7) days in advance of the hearing on the City’s website and in not less than three (3) public places within the City, as such public places are determined by Council, and in such an event, the Charging Official may reschedule the time, date and place of the hearing to accommodate the publication of the notice. If the hearing is rescheduled, the Charging Official shall notify the accused person of such fact. Decisions made by the Council under this Section shall be subject to review by the Courts on matters of law and whether the Council acted arbitrarily and without probative evidence to support the grounds for removal.

(G) Council shall request the County Prosecutor or his designee to prosecute the removal proceedings before the Council and any reviews thereof by the Courts. If the County Prosecutor refuses to accept the responsibility, Council shall appoint a Special Prosecutor who shall prosecute the removal proceedings before the Council and any reviews thereof by the Courts. If a person accused is not finally removed the City shall pay the reasonable costs of the defense of such persons and any compensation withheld pending the appeal of the action of the Council.

Section 9. The recommendations of the Huber Heights Charter Review Commission as to the above amendments have been approved to the extent set forth in the proposed amendment language.

Section 10. The election, as authorized, shall be held at the regular places of voting in the City of Huber Heights as established by the Board of Elections by Montgomery County, Ohio, and/or Miami County, Ohio at the date and within the times provided by law and shall be conducted, canvassed, and certified in the manner provided by law.

Section 11. The form of the ballots to be cast at such election shall read substantially as set forth on the attached Exhibit A, which is incorporated herein by this reference. Council authorizes the City Manager and Law Director to make any non-substantive changes to the proposed ballot language as may be required the Board of Elections or Ohio Secretary of State for the issues to be placed on the applicable ballot.

Section 12. The Clerk of Council be and hereby is authorized and directed to provide notice of said election be given as provided by law and to take all steps necessary to place these City Charter Amendments on the ballot, including but not limited to providing a certified copy of the full text of the aforesaid City Charter amendments to the Boards of Elections of Montgomery and Miami, Ohio, not fewer than ninety (90) days prior to the date of the Election and directing the applicable Boards of Elections to place on the ballot at the General Election to be held on November 5, 2024, or if not permitted by law to be on that date, at the next election thereafter permitted by law.

Section 13. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were taken in meetings open to the public and in conformance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 14. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, and for the further reason that the in order to have the issue on the November 5, 2024 General Election ballot, if permitted by law, it must be approved, finalized, and submitted to the Boards of Elections prior to August 7, 2024; therefore, this Ordinance shall take full force and effect immediately upon its adoption by Council.

Passed by Council on the _____ day of _____ , 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

EXHIBIT A
Proposed Ballot Language

Proposed ballot language for Ordinance Section 1:

A majority vote is necessary for passage.

Shall Section 4.03 of the Charter of the City of Huber Heights be amended to provide that candidates for the offices of Councilmember and Mayor shall not be holding the office of Councilmember or Mayor at the time of filing their nomination petition, unless the petitioner is in the last year of their then current term?

For adoption of the Charter Amendment.
Against adoption of the Charter Amendment.

Proposed ballot language for Ordinance Section 2, Section 3, and Section 4:

A majority vote is necessary for passage.

Shall Sections 4.04, 4.12, and 5.12 of the Charter of the City of Huber Heights be amended to provide the Mayor with a single vote on Council and to remove any reference to a Mayor's veto?

For adoption of the Charter Amendment.
Against adoption of the Charter Amendment.

Proposed ballot language for Ordinance Section 5:

A majority vote is necessary for passage.

Shall Section 5.08 of the Charter of the City of Huber Heights be amended to provide that the Clerk of Council may provide notice of any proposed adoption or recodification of the City Code by posting the notice for at least ten (10) days prior to Council's adoption on the City's website and in not less than three (3) public places within the City, as determined by Council?

For adoption of the Charter Amendment.
Against adoption of the Charter Amendment.

Proposed ballot language for Ordinance Section 6:

A majority vote is necessary for passage.

Shall Section 6.01 of the Charter of the City of Huber Heights be amended to require that the residency of the City Manager be dependent on existing Ohio State Law and as negotiated by Council?

For adoption of the Charter Amendment.
Against adoption of the Charter Amendment.

Proposed ballot language for Ordinance Section 7 and Section 8:

A majority vote is necessary for passage.

Shall Sections 9.07 and 13.08 of the Charter of the City of Huber Heights be amended to provide grounds for removal of board or commission members who have at least three (3) or more unexcused absences from board or commission meetings, and grounds for removal of any Councilmember who has at least three (3) or more unexcused absences from any Council meetings?

For adoption of the Charter Amendment.
Against adoption of the Charter Amendment.

AI-10211 **Topics Of Discussion** C.

Council Work Session

Meeting Date: 07/16/2024

Property Maintenance Review Board Update

Submitted By: Anthony Rodgers

Department: City Council

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.: N/A

Agenda Item Description or Legislation Title

Property Maintenance Review Board Update

Purpose and Background

Representatives of the Property Maintenance Review Board will give an update presentation on the activities and work of the Property Maintenance Review Board.

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:	

Attachments

No file(s) attached.

AI-10207 **Topics Of Discussion** **D.**

Council Work Session

Meeting Date: 07/16/2024

City Staffing Levels/Table Of Organization

Submitted By: Katie Knisley

Department: City Manager **Division:** Human Resources

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

City Staffing Levels/Table Of Organization

Purpose and Background

This legislation amends and establishes the City's organizational chart and authorizes new personnel staffing levels.

Amendments include the following:

- Revising the Assistant City Manager/Director of Public Services to Assistant City Manager (ACM) and authorizing one additional ACM for a total of two
- Addition of two full-time Assistant Fire Chief positions
- Reorganizing the Medical Director/Wellness Coordinator to a Battalion Chief/Wellness Coordinator (formerly known as the Administrative Battalion Chief; therefore, no change in the staffing levels of Battalion Chief, it will stay at four)
- Addition of a full-time Systems Administrator within the IT Department
- Deletion of a part-time IT System Analyst and replacing with a full-time IT System Analyst for a total of three
- Renaming the Procurement Specialist to Grants and Procurement Coordinator
- Addition of a Public Relations Specialist within the City Manager's Office

Fiscal Impact

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

Attachments

Resolution

Table Of Organization

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

AMENDING AND/OR ESTABLISHING THE CITY OF HUBER HEIGHTS ORGANIZATIONAL CHART AND AUTHORIZING THE NEW PERSONNEL STAFFING LEVELS AS DETAILED BELOW.

WHEREAS, the citizens of Huber Heights require the efficient and effective delivery of municipal services.

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

Section 1. The attached organizational chart, personnel staffing levels, and position control numbers as established hereafter is hereby adopted.

Section 2. The authorized personnel staffing levels for the Clerk of Council are as follows.

City Council	No.	Position Control No.	Pay Grade
Clerk of Council	1	504-101-2-2-01-F	50
Deputy Clerk of Council	1	504-202-1-2-01-F	25
Public Records Technician	1	504-213-1-2-01-P/H	20

Section 3. The authorized personnel staffing levels for the City Manager's Office are as follows:

City Manager's Office	No.	Position Control No.	Pay Grade
City Manager	1	505-100-2-2-01-F	per contract
Assistant City Manager	2	505-117-2-2-02-F	75
Assistant to City Manager	1	505-618-2-2-01-F	40
Administrative Assistant III	1	505-209-2-2-01-F	25
Communications Coordinator	1	505-615-2-1-01-F	40
Public Relations Specialist	1	505-622-2-1-01-F	40

Section 4. The authorized personnel staffing levels for the Department of Public Safety are as follows:

Department of Public Safety	No.	Position Control No.	Pay Grade
Director of Public Safety	1	505-116-2-2-01-F	75
Division of Fire			
Fire Chief	1	102-401-2-2-01-F	70
Assistant Chief	2	102-413-2-1-02F	60
Battalion Chief /Wellness Coordinator	1	102-403-1-1-01-F	PS
Battalion Chief	3	102-403-1-1-01-- 03F	PS
Captain	5	102-402-1-1-01—05F	PS
Fire Lieutenant	9	102-404-1-1-01-- 09-F	Contract
Firefighter/Paramedic	42	102-405-1-1-01—42-F	Contract
Firefighter/Paramedic Recruit	3	102-412-1-1-01—03-F	PS
Administrative Assistant III	2	102-200-1-2-01-- 02-F	25
Administrative Assistant I	1	102-200-1-2-01-P/H	10
Fire Inspector	1	102-501-1-2-01-F	30
Fire Inspector	3	102-501-1-2-01- 03-P/H	30
Fire-Prevention Manager/Plans Review	1	102-502-1-2-01-P/H	50
Fire Fleet/Facility Mgt. Clerk	1	102-503-1-2-01-P/H	10
Auxiliary $1.00 per year	30	102-411-3-0-01--30-V	V
Chaplains – Fire	2	102-601-3-0-01--02-V	V
Medical Advisor	1	102-604-3-0-01-V	V

Division of Police			
Police Chief	1	101-406-2-2-01-F	70
Deputy Police Chief	1	101-411-2-2-01-F	60
Police Lieutenant	3	101-408-1-1-01--03-F	Contract
Police Sergeant	8	101-409-1-1-01--08-F	Contract
Police Officer	45	101-410-1-1-01--45-F	Contract
Administrative Assistant III	1	101-200-1-2-01-F	25
Administrative Assistant II	1	101-213-1-2-01-F	20
Police Accreditation Technician	1	101-515-1-1-01-F	30
Police Records Clerks	2	101-204-1-1-01--02-F	Contract
Police Evidence/Fleet Mgt. Clerk	2	101-205-1-2-02-P/H	20
Communications/Records Manager	1	101-611-2-1-01-F	45
Communications/Records Supervisor	2	101-613-1-1-02-F	35
Communications Officer	15	111-502-1-1-01-15-F	Contract
Chaplain – Police	3	101-601-3-0-01—03-V	V

Section 5. The authorized personnel staffing levels for the Department of Information Technology are as follows:

Department of Information Technology		Position Control No.	Pay Grade
Information Technology Director	1	509-105-2-2-01-F	60
Systems Administrator	1	509-122-2-2-01-F	50
Information Technology Systems Analyst	3	509-609-1-2-03-F	45
GIS Technician	1	509-510-1-1-01-F	35

Section 6. The authorized personnel staffing levels for the Department of Finance are as follows:

Department of Finance	No.	Position Control No.	Pay Grade
Director of Finance	1	506-102-2-2-01-F	65
Division of Accounting			
Deputy Director of Finance	1	506-602-2-2-01-F	50
Grants and Procurement Coordinator	1	506-618-2-2-01-F	45
Accounting Generalist	2	506-603-2-2-02F	45
Accounts Payable Technician	1	506-504-1-1-01-F	25
Payroll Technician	1	506-505-1-1-01-F	30
Account Technician	1	506-206-1-1-01 F	25
Division of Taxation			
Tax Administrator	1	507-104-2-2-01-F	50
Assistant Tax Administrator	1	507-612-2-2-01-F	45
Tax Analyst	2	507-506-1-1-01--02-F	30
Tax Technician	6	507-507-1-1-01 -06-F	20
Administrative Assistant I	1	507-212-1-2-01- 01-F	10
Administrative Assistant I	1	507-212-1-2-01- 01P/H	10

Section 7. The authorized personnel staffing levels for the Department of Public Services are as follows:

Department of Public Services	No.	Position Control No.	Pay Grade
Director of Public Services	1	505-114-2-2-01-F	75
Division of Engineering			
City Engineer	1	320-106-2-2-01-F	65
Assistant City Engineer	2	320-119-2-2-02-F	55
Civil Engineer	1	320-605-2-2-01-01-F	50
Engineering Technician	2	320-509-1-1- 02-F	35
Administrative Assistant III	1	320-200-1-2-01-F	25

Division of Public Works			
Public Works Manager	1	401-108-2-2-01-F	60
Public Works Supervisor	2	401-109-1-1-02-F	50
Public Works Crew Leader	3	401-302-1-1-03-F	Contract
Vehicle & Equipment Mechanic	3	401-300-1-1-03-F	Contract
Maintenance Technician	21	401-301-1-1-21-F	Contract
Administrative Assistant III	1	401-200-1-2-01-F	25
Custodian	1	401-305-1-2-01-F	10
Custodian	1	401-305-1-2-01-P/H	10
Division of Code Enforcement			
Code Enforcement Manager	1	310-621-2-1-01-F	45
Code Enforcement Officer II	1	310-513-1-1-01-01-F	35
Code Enforcement Officer I	4	310-513-1-2-01-04-P/H	20
Seasonal Laborer	2	310-305-1-2-01-02-S	S

Section 8. The authorized personnel staffing levels for the Department of Economic Development are as follows:

Department of Economic Development	No.	Position Control No.	Pay Grade
Economic Development Director	1	305-111-2-2-01-F	60
Economic Development Coordinator	1	305-614-2-1-01-F	40

Section 9. The authorized personnel staffing levels for the Department of Planning and Zoning are as follows:

Department of Planning & Community Dev.	No.	Position Control No.	Pay Grade
Planning & Community Dev. Director	1	310-121-2-2-01-F	60
City Planner	1	310-118-2-2-01-F	55
Administrative Assistant III	1	310-200-1-2-01-F	25
Administrative Assistant I	1	310-207-1-1-01-F	10
Administrative Assistant I	1	310-207-1-2-01-P/H	10

Section 10. The authorized personnel staffing levels for the Department of Human Resources are as follows:

Department of Human Resources	No.	Position Control No.	Pay Grade
Human Resources Director	1	510-120-2-2-01-F	60
Human Resources Specialist	2	510-617-1-1-02-F	40
Human Resources Assistant	1	510-514-1-2-01-P/H	30

Section 11. The authorized personnel staffing levels for the Department of Parks and Recreation Facilities are as follows:

Department of Parks and Recreation Facilities	No.	Position Control No.	Pay Grade
Parks Manager	1	216-616-2-2-01-F	45
Event and Program Coordinator	1	216-516-1-1-01-F	30
Senior Center Program Coordinator	1	215-110-2 -2 -01-P/H	20
Seasonal Laborer – Music Center	125	219-306-1-2-01--125-S	S
Seasonal Laborer-Maintenance	2,000-hrs	216-303-1-2-01--S	S
Seasonal Laborer-Program Leader	1,000-hrs	216-303-1-2-01-S	S

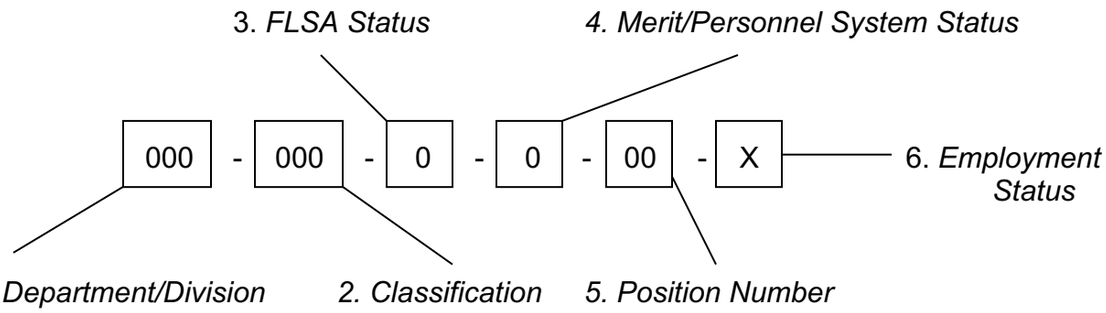
Section 12. Council further ratifies and affirms any and all previous legislation of Council that established, abolished or altered the functions and structures of any administrative department.

Section 13. 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 14. That this Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Section 15. Position Control Number Explanation:



1. Department/Division: Number represents Fund Number in General Ledger:

101-Police	305-Economic Dev.	401-Public Works	507-Tax
102-Fire	310 Planning & Zoning	505-City Mgr.	509-I. T.
215-Senior Center	320-Engineering	506-Accounting	510-H.R
219 Parks & Recreation			

2. Classification: Number for classification or rank to which position is assigned, divided into defined series as shown below:

100-Administrative	300-Labor	500-Technical
200-Clerical	400-Sworn Safety	600-Professional

3. FLSA Status:

01-Non-exempt from minimum wage/overtime rules of FLSA (hourly)
02-Exempt from minimum wage/overtime rules of FLSA (salaried)
03-Unpaid Volunteer

4. Merit & Personnel System Status:

01-Position is in Non-exempt service of city per Section 8.02 of Charter
02-Position is in Exempt service of city per Section 8.02 of Charter

5. Position Number:

Unique two-digit number for each employment position authorized by this Resolution.

6. Employment Status:

F-Full-time Position
P-Part-time Position
H-Hourly Position
T-Temporary (created for specific time)
S-Seasonal Position
V-Volunteer Position

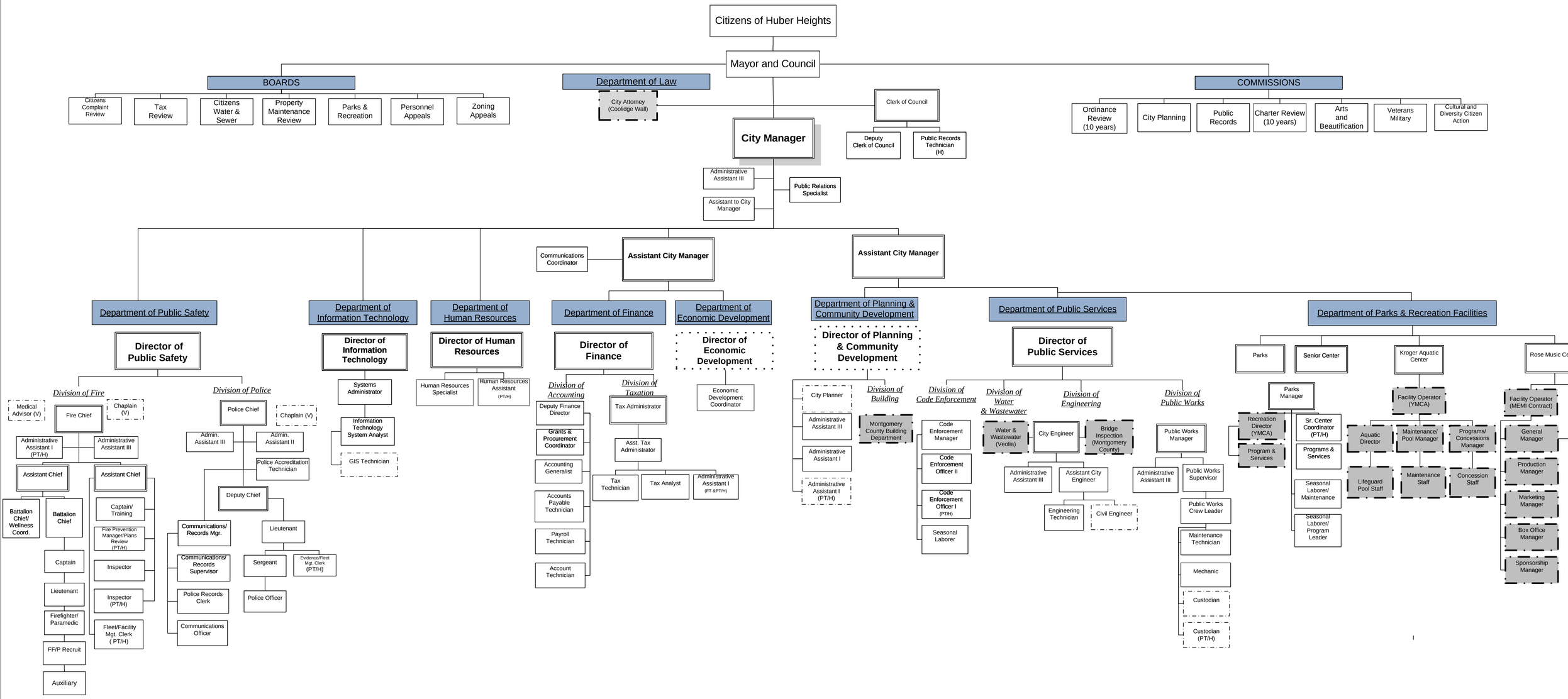
Passed by Council on the _____ day of _____ , 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

City of Huber Heights Organizational Chart



City of Huber Heights
Revised July 22, 2024

- All employees are permanent / full time unless specified otherwise.
- (PT) = Part Time, (H) = Hourly (T) = Temporary, (V) = Volunteer, (S)=Seasonal
  Contractor Relationship
  Vacant Position

Authorized Staffing Levels

City Council (FT):	2	Department of IT (FT):	6	Department of Finance (FT):	1	Department of Human Resources (FT):	3	Department of Parks & Recreation Facilities (S):	129
City Council (PT/H)	1	Division of Public Works (PT/H):	1	Division of Accounting (FT):	7	Department of Human Resources (PT)	1	Department of Parks & Recreation Facilities (PT/H):	1
City Manager (FT):	7	Division of Public Works (FT):	32	Division of Taxation (FT):	11	Department of Planning (FT):	4	Division of Code Enforcement (FT):	2
Fire Division (FT):	69	Division of Taxation (PT/H):	1	Department of Planning (PT/H):	1	Division of Code Enforcement (PT/H):	4	Division of Code Enforcement (S):	2
Fire Division (PT/H):	6	Director of Public Safety (FT):	1	Director of Public Services (FT):	1	Department of Economic Development (FT):	2	Department of Parks & Recreation Facilities(FT):	2
Police Division (FT):	81	Division of Engineering (FT):	7						
Police Division (PT/H):	2								

AI-10208 **Topics Of Discussion** **E.**

Council Work Session

Meeting Date: 07/16/2024

City Salary Ranges/Wage Levels

Submitted By: Katie Knisley

Department: City Manager **Division:** Human Resources

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

City Salary Ranges/Wage Levels

Purpose and Background

This legislation amends and establishes the salary ranges and wage levels of all non-union employees of the City.

Amendments include the following:

- Revising the Assistant City Manager/Director of Public Services to Assistant City Manager (ACM) and adding back the Director of Public Services to pay grade 75
- Addition Assistant Fire Chief to pay grade 60
- Deletion of the Medical Director/Wellness Coordinator and adding the Battalion Chief/Wellness Coordinator to the pay grade PS
- Addition Systems Administrator to pay grade 50
- Renaming the Procurement Specialist to Grants and Procurement Coordinator within pay grade 45
- Addition of Public Relations Specialist within pay grade 40

Fiscal Impact

Source of Funds: Various Funds

Cost: N/A

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

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

Financial Implications:

Attachments

Resolution

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

ESTABLISHING AND/OR AMENDING THE SALARY RANGES AND WAGE LEVELS FOR EMPLOYEES OF THE CITY OF HUBER HEIGHTS, OHIO.

WHEREAS, the citizens of Huber Heights require efficient and effective delivery of municipal services.

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

Section 1. The pay ranges, compensation procedures, and administrative rules for non-bargaining employees are hereby established.

Section 2. City Council shall be responsible for establishing the actual salaries for the City Manager, the Clerk of Council, and the Deputy Clerk of Council. The salary ranges of the City Manager, the Clerk of Council, and the Deputy Clerk of Council are set forth in the following plan document.

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.

THE CITY OF HUBER HEIGHTS

PERFORMANCE COMPENSATION PLAN FOR NON-BARGAINING EMPLOYEES

1. Compensation Philosophy

It is the city's philosophy to support and enhance organizational performance through a fair, objective, and equitable merit-based pay plan which will attract, retain, and motivate high performing non-bargaining employees.

2. General Administrative Responsibilities

The Human Resources Director, under the direction of the City Manager is responsible for the administration of the Performance Compensation Plan, including the processing of pay rate increases, the adjustment of pay for promotions, re-employments and reassignments, and the initiation of necessary revisions in pay ranges. The Human Resources Director is responsible for interpreting the application of the program to all pay issues which are not specifically covered by this ordinance, using the principles expressed herein as a policy guide.

3. Plan Administration

A. Market Surveys. The Human Resources Director shall conduct market surveys every three years or from time to time in order to collect updated comparable and competitive salary data, recommend revised pay structures and pay ranges as necessary, and recommend revised merit-based pay procedures. Such surveys and recommendations shall be conducted as positions become vacant, or upon request of a department/division head, or upon the initiation of the Human Resources Director when it is determined necessary for the effective administration of the Performance Compensation Plan.

B. Structure Adjustments. Periodically, the Human Resources Director may recommend pay range adjustments to the City Manager in keeping with labor market trends, who in turn may make appropriate recommendations to City Council. Pay ranges (except for seasonal positions) shall include a minimum and maximum amount stated either as an annual salary or hourly rate.

C. Assignment of Positions to Pay Ranges. The Human Resources Director shall be responsible for assigning each city employment position to a pay range based on market data and the City Manager's determination of the strategic value of positions and/or employees to the organization. Strategic value considerations may involve turnover, skill needs, attraction and retention issues, supply and demand for qualified applicants for particular positions, the impact of specific positions and employees on the organization's mission, and/or other relevant factors.

4. Applicability

This resolution and Performance Compensation Plan shall apply to and is the sole authority for setting rates of pay for the following categories of positions and employees: All regular full-time, regular part-time, provisional full-time, provisional part-time, hourly, temporary, and seasonal employees of the City of Huber Heights, Ohio except: the Mayor; members of City Council, the City Law Director; and all employees who are members of a collective bargaining unit recognized by the State Employment Relations Board.

5. Positions and Pay Ranges

Pay Grade	***Minimum Pay***	***Maximum Pay***
10	$15.6591	$22.8376
Custodian Administrative Assistant I Fire Fleet/Facility Management Clerk	$32,570.93	$47,502.21
20	$17.9813	$27.6315
Administrative Assistant II Public Records Technician Tax Technician Police Evidence/Fleet Management Clerk Senior Center Program Coordinator Code Enforcement Officer I	$37,401.10	$57,473.52
25	$20.8480	$30.3947
Account Technician Accounts Payable Technician Administrative Assistant III Deputy Clerk of Council	$43,363.84	$63,220.98
30	$21.3206	$31.8873
Police Accreditation Technician Payroll Technician Tax Analyst Event and Program Coordinator Fire Inspector Human Resources Assistant	$44,346.85	$66,325.58
35	$24.6600	$35.1153
GIS Technician Engineering Technician Code Enforcement Officer II Communications/Records Supervisor	$51,292.80	$73,039.82
40	$26.5534	$38.1949
Assistant to City Manager Communications Coordinator Economic Development Coordinator Human Resources Specialist Public Relations Specialist	$55,231.07	$79,445.39

45	$26.6568	$40.7918
Accounting Generalist Code Enforcement Manager Assistant Tax Administrator IT Systems Analyst Communications/Records Manager Parks Manager Grants and Procurement Coordinator	$55,446.14	$84,846.94
50	$34.4624	$48.4805
Deputy Director of Finance Fire Prevention Manager/Plans Review Tax Administrator Public Works Supervisor Clerk of Council Civil Engineer Systems Administrator	$71,681.79	$100,839.44
55	$38.4696	$53.8616
Assistant City Engineer City Planner	$80,016.77	$112,032.13
60	$42.3125	$59.2354
Human Resources Director IT Director Public Works Manager Economic Development Director Planning & Community Dev. Director Deputy Police Chief Assistant Fire Chief	$88,010.00	$123,209.63
65	$46.5458	$67.1190
City Engineer Director of Finance	$96,815.26	$139,607.52
70	$53.5328	$74.9459
Fire Chief Police Chief	$111,348.22	$155,887.47
75	$48.6662	$82.4363
Assistant City Manager Director of Public Safety Director of Public Services	$101,225.70	$171,467.50
80		
City Manager		Per Contract

Position	*Minimum Pay*	*Mid-point Pay*	*Maximum Pay*
Seasonal Laborer	N/A	N/A	$20.00
Intern	N/A	N/A	$20.00

Public Safety (PS)		
	Step 1	**Step 2**
Battalion Chief	2% below Step 2	14% above top step Fire Lieutenant
Battalion Chief/Wellness Coordinator	2% below Step 2	14% above top step Fire Lieutenant
Fire Captain	2% below Step 2	6% above top step Fire Lieutenant
Firefighter/Paramedic Recruit	15% below Step 1 FF/P	N/A

Employees are paid bi-weekly on an hourly or salary basis. The bi-weekly pay rate for salaried employees is a calculation of the annual pay rate divided by 26 and the bi-weekly amount for hourly employees is a calculation of the annual pay rate divided by 2080 hours, to include those budget years with 27 pay periods. The bi-weekly amount for part-time/hourly employees, working less than a 40-hour week in a 2080 work year, is a calculation of the annual pay rate multiplied by the number of hours worked.

6. Compensation Adjustments

All of the following pay rate adjustments are subject to funding by City Council based upon the availability of funds and economic and budget projections and priorities.

A. New Hires. Newly hired employees shall be hired at a rate of pay between the minimum and maximum of the applicable pay range. The exact pay rate shall be based on the employee's education, experience, knowledge, skills, and abilities. Prior to the making of a conditional offer of employment to a prospective new or newly promoted employee, the department/division head shall recommend a starting rate of pay which shall be forwarded to the Human Resources Manager for review and then to the City Manager for final action.

B. Completion of Probation. Department/division heads may recommend a pay increase, not to exceed 2%, for newly hired or promoted employees upon the successful completion of probation or one year of employment. The department/division head should consider the employee's starting rate as related to their pay range, the pay of other employees in the position and in the employee's division, and the employee's performance in making this decision. Any such increase, upon approval by the City Manager, shall be paid from the division's regular payroll budget.

C. Promotion. Employees who are promoted to positions with a higher level of duties and responsibilities shall be placed at a rate of pay between the minimum and maximum of the applicable pay range.

D. Demotion. Employees who are demoted to positions with a lower level of duties and responsibilities because of less than satisfactory performance, failure to meet job requirements, or for disciplinary reasons shall be placed at the minimum of the new range, or receive a pay decrease not to exceed 10%, whichever results in the least loss of pay.

E. Reassignment. Employees who are reassigned to positions with a lower pay grade through no fault of their own (i.e., reorganization, job abolishment, reduction-in-force, or market/technological factors, etc.), shall remain at their current rate of pay, or shall be placed at the maximum of the pay range, whichever is less. An employee who voluntarily requests and is granted a reassignment to a position with a lower pay grade will have their pay adjusted between the minimum and maximum of the lower pay grade.

F. Temporary Upgrade to a Higher Position. Employees who are temporarily assigned (for a minimum of 7 consecutive calendar days) to perform all of the duties and assume all of the responsibilities of a position due to a position vacancy or an approved leave of absence of a position incumbent shall be receive a pay increase not to exceed 5%. Temporary upgrades shall be recommended to the Human Resources Manager and approved by the City Manager in advance.

G. Modification of Pay Ranges. When a position's pay range is modified upward, based on market data and/or strategic value, and the position is occupied, the incumbent shall retain his/her existing pay rate or be placed at the minimum of the new pay range, whichever is greater. When a position's pay range is modified downward, and the position is occupied, the incumbent shall remain at his/her current rate of pay.

H. Transfers. Employees who transfer to another job in an identical pay range or to an identical position in another division in the same pay range, there will be no change in the employee's rate of pay.

I. Transitional. In cases deemed necessary and appropriate by the City Manager, an appointment to a position in the non-exempt service, which is not yet vacated, but which position incumbent has provided the City Manager with a written notice of resignation or retirement on a date certain, which date is within 90 days following the date of such appointment.

J. In the event there is a planned retirement, separation from service, or long-term leave of absence for medical or military service reasons, to ensure efficient and uninterrupted City operations, the City Manager may increase the permanent staffing of the department, or division, effected by the planned retirement or separation from service by one position per expected vacancy for the expected duration of that vacancy.

K. Paid Intern Positions: In cases deemed necessary and appropriate by the City Manager, an appointment of a student intern may be made based on skill, experience, and the scope of the project to be completed

7. Compensation Increases

The compensation of each employee shall be reviewed annually by the department director/division manager, or Mayor and Council, for the purpose of determining which employees may be entitled to a performance-based increase. All personnel records, performance, and experience shall be considered in making recommendations with major emphasis placed on the evaluation. The City Manager or Mayor and Council is authorized to pay non-union employees a performance-based increase provided that said increase is within the approved salary range for the respective position. The performance-based increase may also be provided in the form of a bonus. The annual performance-based increase is determined upon the availability of funds and economic and budget projections and priorities.

Providing the Collective Bargaining Agreements receive an annual increase, the City shall adjust the compensation of all non-union employees, to include employees of the City Council, to reflect the same annual increase within the respective year.

To be eligible for a performance-based increase, an employee must be employed with at least six months of continuous service before the merit award date.

An employee whose pay is at the maximum of the compensation range may not be granted an increase that would cause the base compensation to exceed the maximum of the range for that position. The employee would continue to be eligible for an annual increase and performance bonus, with a lump sum increase based upon the percentage increase. The pay range, however, does not change until a new market study is conducted, every three years, and a recommendation is made to revise pay structures and pay ranges as necessary

Passed by Council on the____day of _____, 2024;
____ Yeas; ___ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

AI-10200 **Topics Of Discussion** **F.**

Council Work Session

Meeting Date: 07/16/2024

2024 Sidewalk Program - Ordinance Of Assessment

Submitted By: Jim Bell

Department:	City Manager	**Division:**	Finance/Tax
Council Committee Review?:	Council Work Session	**Date(s) of Committee Review:**	07/16/2024
Audio-Visual Needs:	None	**Emergency Legislation?:**	Yes

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

2024 Sidewalk Program - Ordinance Of Assessment

Purpose and Background

This Ordinance Of Assessment is the final piece of legislation for the 2024 Sidewalk Program. Following the passage of this ordinance by City Council, City Staff will send the invoices to the affected property owners. These property owners will have until August 9, 2024, to make payment. All unpaid assessments will be sent to the County Auditor by the second Monday of September, 2024 as required.

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:	

Attachments

Ordinance

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2024-O-

TO LEVY SPECIAL ASSESSMENTS FOR THE REPAIR AND RECONSTRUCTION OF SIDEWALKS, CURBS AND GUTTERS, DRIVEWAY APPROACHES AND APPURTENANCES THERETO ON PARTS OR ALL OF CERTAIN STREETS IN THE CITY OF HUBER HEIGHTS REFERRED TO AS THE 2024 SIDEWALK PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, City Council has previously adopted legislation declaring the necessity of repairing sidewalks, driveway aprons, handicap ramps, curbs and gutters, and catch basin aprons under the 2024 Sidewalk Program; and

WHEREAS, contracts have been let to perform various phases of the work under this program; and

WHEREAS, all phases of this work are now complete, and the Engineering Division has calculated the final assessment cost to each property owner.

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

Section 1. The assessment of the cost of repairing or reconstructing sidewalks, curbs and gutters, driveway approaches and appurtenances thereto on those streets in the City of Huber Heights, Ohio as previously reported to this Council and filed in the Office of the Clerk of Council and aggregating $116,831.69 is hereby adopted and confirmed. Notice of the filing of said assessments has been given as required by law, and no objections were filed with the Clerk of Council within the two weeks provided by statute.

Section 2. There are hereby levied and assessed upon the lots and lands bounding and abutting on the improvement and provided for in the Resolution of Necessity No. 2023-R-7309 passed August 21, 2023, the several assessment amounts which, taken together, aggregate the dollar amount set forth above. Those assessments are within statutory limitation. The assessments and the description of said lots and lands are now on file in the Office of the Clerk of Council.

Section 3. The total assessment against each lot or parcel of land shall be payable on or before August 9, 2024, and any such assessment payments, which have not been delivered to the City's Accounting Generalist postmarked by August 9, 2024, shall be assessed by up to five annual installments, except all assessments $100.00 or less shall be in one installment. Such assessments shall further include interest on any bonds and notes that could be sold at the time to finance the improvements, plus administration and collection costs, together with all other necessary expenditures. All assessments and installments thereof which have not been paid at the expiration of the payment period described above shall be certified by the Clerk of Council to the County Auditor as provided by law to be placed on the tax duplicate and collected as other taxes are collected.

Section 4. The City's Accounting Generalist is hereby directed to cause notice of the passage of this Ordinance to be published once in a newspaper of general circulation in this City within ten days after its passage.

Section 5. The Office of the City Engineer is authorized and directed to keep the assessments on file in the Office of the City Engineer for as long as any of them remain unpaid.

Section 6. Further, the Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor within twenty days after its passage.

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 is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare and for the further reason that this timely approval by Council will enable the City to meet the County deadline for filing unpaid assessments for 2024; therefore, this Ordinance shall be in force and effect immediately upon its adoption by Council.

Passed by Council on the _____ day of _____ , 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

AI-10205 **Topics Of Discussion** G.

Council Work Session

Meeting Date: 07/16/2024

2025 Sidewalk Program - Resolution Of Necessity

Submitted By: Hanane Eisentraut

Department: Assistant City Manager

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

2025 Sidewalk Program - Resolution Of Necessity

Purpose and Background

The Engineering Division has identified properties requiring work within the 2025 Sidewalk Program area. Additionally, each property has been measured and an estimate of the repair costs has been completed. The first step in the assessment process will be to notify the property owners of the need to repair their sidewalks and/or aprons. Property owners will have until December 31, 2024 if they wish to hire their own contractor or perform the work themselves.

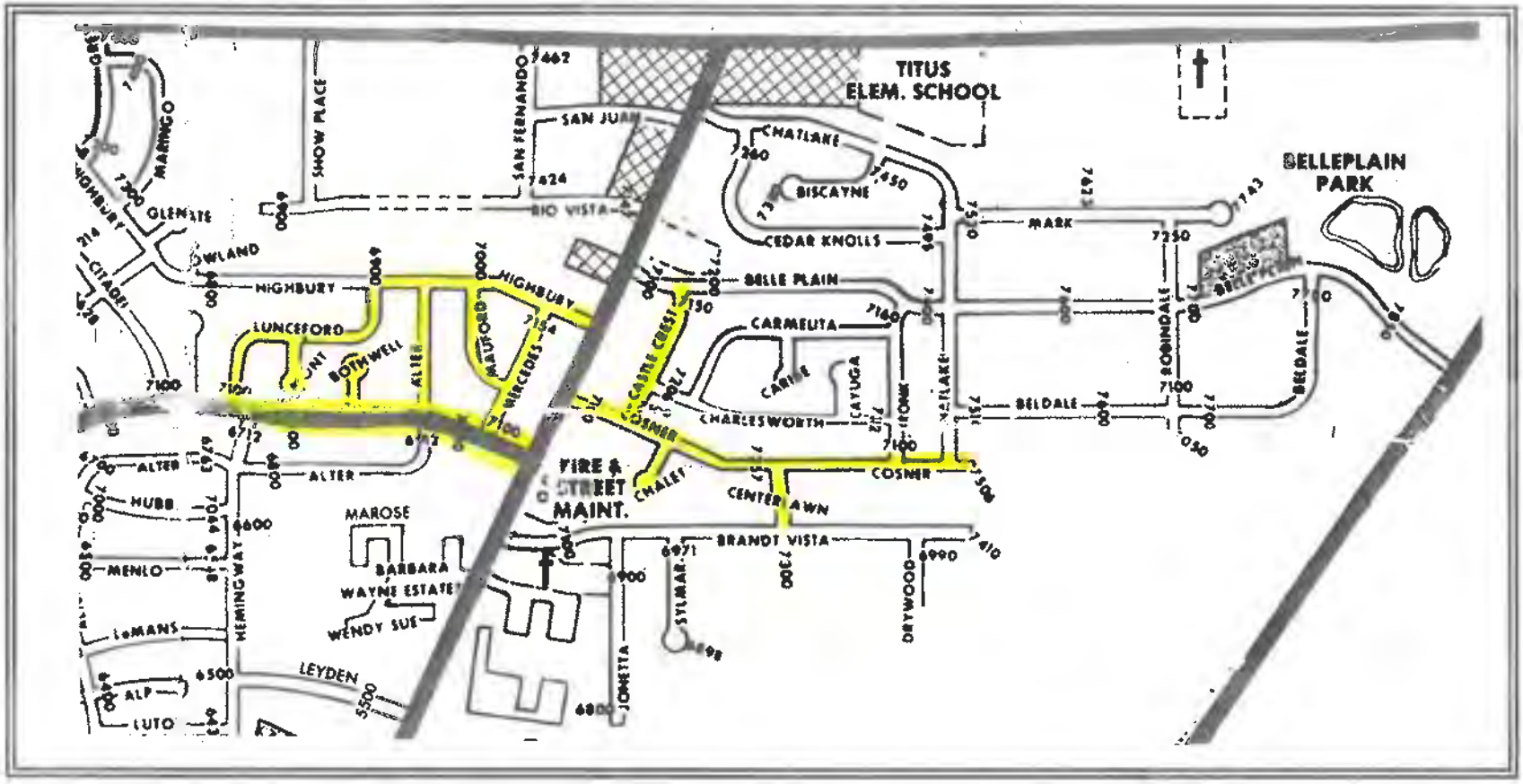
Fiscal Impact

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:	

Attachments

Map

Resolution



Project Location Map
2025 SIDEWALK PROGRAM

Huber Heights, Ohio

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

DECLARING THE NECESSITY OF REPAIRING SIDEWALKS, CURBS, GUTTERS, DRIVEWAY APPROACHES AND APPURTENANCES THERETO ON PORTIONS OR ALL OF CERTAIN STREETS IN THE 2025 SIDEWALK PROGRAM, PROVIDING THAT ABUTTING OWNERS REPAIR THE SAME.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio, two-thirds of the members concurring, that:

Section 1. It is necessary to repair sidewalks, curbs, gutters, driveway approaches, and appurtenances thereto on those streets listed in Exhibit A attached hereto and made a part of this Resolution. All such repairs shall be made in accordance with the plans, specifications and estimates of cost prepared by the City Engineer and now on file in the Office of the City Engineer.

Section 2. The owners of the lots and lands bounding and abutting upon the streets, sidewalks, curbs, gutters, and driveway approaches, and appurtenances thereto described in Section 1 of this Resolution shall repair sidewalks, curbs, gutters and driveway approaches and the appurtenances thereto in front of their premises in accordance with the plans and specifications now on file with such repair work to be completed by December 31, 2024. If such repair by any such property owner is not completed within said period, this Council shall have the same done and the entire cost thereof shall be assessed upon the property of each such defaulting owner and made a lien thereon, to be collected in the manner provided by law and with penalty and interest as provided by law. The cost of such repair and improvement shall include the cost of preliminary and other surveys, plans, specifications, profiles and estimates and of printing, serving and publishing notices, resolutions and ordinances. Such costs shall further include the costs incurred in connection with the preparation, levy, and collection of the special assessments, expenses of legal services, including obtaining and approving legal opinion, costs of labor and materials, and interest on any bonds and notes that could be sold at the time to finance the improvements plus administration and collection costs, together with all other necessary expenditures.

Section 3. The Clerk of Council is directed to cause written notice of the adoption of this Resolution to be served as required by law.

Section 4. The plans, specifications and estimates of cost for such repair work, as referred to above in this Resolution and as heretofore filed with the Office of the City Engineer, are hereby approved.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption 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, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 6. 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 _____, 2024;
_____ Yeas _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

EXHIBIT A
2025 SIDEWALK PROGRAM
STREET LISTING

Alter Road from 6900 Alter Road to 6951 Alter Road
Almont Place from 7100 Almont Place to 7119 Almont Place
Bothwell Place: from 7100 Bothwell Place to 7120 Bothwell Place
Castlecrest Drive from 7101 Castlecrest Drive to 7147 Castlecrest Drive
Centerlawn Drive: 7012 Centerlawn Drive
Chalet Place: from 7100 Chalet Place to 7119 Chalet Place
Cosner Drive: from 7100 Cosner Drive to 7506 Cosner Drive
Highbury Road from 6901 Highbury Road to 7055 Highbury Road
Longford Road from 6802 Longford Road to 7038 Longford Road
Lunceford Drive from 7100 Lunceford Drive to 7198 Lunceford Drive
Mauford Drive from 7101 Mauford Drive to 7151 Mauford Drive
Mercedes Road from 7100 Mercedes Road to 7154 Mercedes Road

AI-10216 **Topics Of Discussion** H.

Council Work Session

Meeting Date: 07/16/2024

Issuance Of Notes - Renewal - $1,662,000

Submitted By: Anthony Rodgers

Department: City Council

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Issuance Of Notes - Renewal - $1,662,000

Purpose and Background

The legislation attached was prepared by Squire, Patton & Boggs, acting as bond counsel for the City of Huber Heights, so that notes that were originally issued in 2019 for the purchase of the Lehman property can be renewed for an additional year. The original note for the Lehman property was for $3,750,000, but only the remaining principal of $1,662,000 will need to be financed for the next year.

Fiscal Impact

Source of Funds: TED Fund

Cost: $7,500

Recurring Cost? (Yes/No): No

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

Financial Implications:

Estimated issuance costs of $7,500 would be needed for the note to renew the financing for the 2019 land purchase out of the Transformative Economic Development Fund in 2023. The interest payment for the maturing note was included in the 2024 City Budget.

Attachments

Ordinance

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2024-O-

PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF $1,662,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING APPROXIMATELY 51 ACRES OF REAL PROPERTY NEAR THE INTERSECTION OF BRANDT PIKE AND EXECUTIVE BOULEVARD AND PROVIDING FOR THE SITE PREPARATION THEREOF, ALL IN SUPPORT OF ECONOMIC DEVELOPMENT AND JOB CREATION WITHIN THE CITY.

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 pay the costs of acquiring approximately 51 acres of real property near the intersection of Brandt Pike and Executive Boulevard and provide for the site preparation thereof (the "*Project*"); and

WHEREAS, pursuant to Ordinance No. 2023-O-2599 passed August 28, 2023, notes in anticipation of bonds in the principal amount of $1,662,000, dated September 29, 2023 (the "*Outstanding Notes*"), were issued for the purpose described in Section 2, to mature on September 27, 2024; 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 $1,662,000 (the "*Bonds*") for the purpose of paying the costs of acquiring approximately 51 acres of real property near the intersection of Brandt Pike and Executive Boulevard 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 September 1, 2025, shall bear interest at the now estimated rate of 6.00% 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, 2026.

The Director of Finance may determine if it is in the best interest of and financially advantageous to the City that the Notes shall be subject to optional redemption by and at the sole option of the City, in whole or in part, on any date prior to maturity and at such redemption price, plus accrued interest to the redemption date, all of which terms shall be set forth in the Certificate of Award.

If the City is the registered holder of all of the Notes, notice of redemption may be provided by the Director of Finance to the City in such manner and at such time as is determined by the Director of Finance to be in the best interest of the City. If the preceding sentence does not apply, notice of redemption, identifying the Notes or portions thereof, to be called, shall be mailed by certified mail to the registered holders thereof not less than thirty (30) days prior to the date of redemption.

Notice having been provided or mailed in the manner provided in the preceding paragraph hereof, the Notes and portions thereof called for redemption shall become due and payable on the redemption date, and upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Notes or portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Director of Finance, as paying agent, on the redemption date, so as to be available therefor on that date and, if notice of redemption has been provided or deposited in the mail as aforesaid, then from and after the redemption date those Notes or portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been provided or deposited in the mail as aforesaid, those Notes or portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

Section 4. It is necessary to issue and this Council determines that notes in the maximum principal amount of $1,662,000 (the "*Notes*") shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 2 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 (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 not to exceed 7.00% per year (computed on the basis of a 360day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award. 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, and shall be payable at the office of the Director of Finance.

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 entire principal amount shall be represented by a single note, which shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon its face the purpose, in summary terms, for which it is issued and that it is issued pursuant to the Act, the Charter of the City, this Ordinance and the Certificate of Award.

Section 7. The Notes are offered at a purchase price, not less than par, as shall be determined by the Director of Finance, plus any accrued interest, to the Director of Finance, as the officer having responsibility for investment of public funds pursuant to the Charter of the City. The Director of Finance shall 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 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. Any actions heretofore taken by 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, except any premium and accrued interest, 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. Any portion of those proceeds 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 Department of Development.

Section 12. 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. 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 13. 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. 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. 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 15. 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 16. 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 _____, 2024;
_____ 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. 2024-O-_____ passed by the City Council of the City of Huber Heights, on _____, 2024.

_____
Clerk of Council

AI-10181 **Topics Of Discussion** I.

Council Work Session

Meeting Date: 07/16/2024

Design Contract - App Architecture - Fire Station 23

Submitted By: Keith Knisley

Department: City Manager **Division:** Fire

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Design Contract - App Architecture - Fire Station 23

Purpose and Background

Fire Station 23 has been in operation for over the last forty years. Fire Station 23 was last renovated over 28 years ago.

Fire Station 23 does not have dedicated physical fitness space inside the living quarters and does not have private dorm rooms. The need for renovation was identified about four years ago with the primary desired outcome being private quarters for personnel and offering a physical fitness area that is not subject to temperature changes and diesel exhaust fumes. The current physical fitness space occupies valuable bay space that could be used for the storage of fire apparatus, instead of a less-than-ideal physical fitness space.

This legislation is the first step in beginning a renovation and addition project that will enable firefighters to have similar conditions to other station houses to improve their ability to exercise, prepare, and rest between emergency responses. This legislation enables City Staff to contract for an architect for the design and supervision of a remodel/add-on project for Fire Station 23. The proposed vendor will perform design and construction administration of the renovation and addition to Fire Station 23.

Fiscal Impact

Source of Funds: Fire Capital Fund

Cost: $266,750

Recurring Cost? (Yes/No): No

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

Financial Implications:

Attachments

Proposal

Resolution

June 26, 2024

App Architecture
creative focused design

615 Woodside Drive, Englewood, Ohio 45322
937.836.8898 | 937.832.3696
www.app-arch.com

Chief Keith Knisley
Fire Division
City of Huber Heights
7008 Brandt Pike
Huber Heights, OH 45424

Subject: City of Huber Heights Fire Station 23 Addition & Renovation
Professional Design and Construction Administration Services

Dear Chief Knisley:

We sincerely appreciate the opportunity to present this fee proposal. Our scope of services will include architectural, interior design, civil, structural, electrical, mechanical and fire protection design. This proposal is based upon the Design Bid Build project delivery method where the project will bid publicly to multiple General Contractors. We propose to use the relevant American Institute of Architects (AIA) contract series including the General Conditions. The project entails the design and construction administration of the renovation and addition to Fire Station 23 located at 7435 Old Troy Pike. Our services will further be defined to include the following:

Programming and Concept Phase:

- Perform a facility survey of the existing building to understand the operations and needs to be addressed within the renovated facility.
- Choice One Engineering will provide a topographic/boundary survey of the existing site.
- Field measure existing conditions to develop a detailed set of existing building conditions including architecture, structure, plumbing, mechanical and electrical items. This documentation will include the use of a 3-D scanning camera.
- Conduct an in-person meeting with Fire Department representatives to establish goals, create the Building Program and review the Building Criteria project characteristics to facilitate the Room Data Sheet development process.
- Create Room Data Sheets for every new room or space and confirm requirements of the existing spaces.
- Prepare a very preliminary concept sketch of a proposed plan and site layout to test the fit of a single-story addition.

Schematic Design Phase:

- Prepare a schematic floor plan layout to confirm the requirements for each room or space in the Program/Room Data Sheets can be accommodated in the plan.
- Assist with any design input required to determine new parking lot lighting on the site.
- Conduct an in-person meeting to present the schematic design floor plan and site plan to the HHFD for feedback and make any necessary adjustments. Conduct a follow-up meeting as required to refine the schematic design.

- Prepare up to three schematic exterior massing concepts of the building for discussion by the design committee. It is understood that multiple iterations may be necessary to arrive at the final desired concept.
- Conduct a virtual meeting to present any adjustments to the building massing concepts.
- Conduct an in-person meeting to present the final schematic design concept to the City of Huber Heights along with a three-dimensional image of the building's exterior.
- Prepare a Schematic Design opinion of probable cost based on a cost per SF estimating method.

Design Development Phase:

- Perform an Ohio Building Code analysis of the proposed design based on the 2024 Ohio Building Code requirements.
- Coordinate the work of our consultants (listed below).
- Prepare a Design Development package of drawings and outline specifications for review and approval by the Owner. A combination of in-person and virtual progress meetings will be held as needed to discuss specific aspects of the design with various entities such as IT, equipment needs, door hardware and security, training functions, etc.
- Create a Virtual Reality walk-through experience including all interior finishes, lighting, furniture and equipment. This session will occur at an appropriate location as determined by the Fire Department during a normal business workday and be open for all participants as selected by the Fire Department.
- Produce up to (8) still image interior renderings from the VR model and (2) renderings of the building exterior.
- App Architecture will prepare a Design Development level opinion of probable cost of construction using the quantity take-off method.

Construction Documents Phase:

- Coordinate the requirements for radio services and communications with HHFD. It is understood that The City of Huber Heights will provide in-house design and specification consultation to assist our electrical engineering consultant (Nauman & Zelinski) and technology.
- Provide Interior Design services to select interior finishes and colors.
- Prepare Construction Documents sufficient for building and zoning permit submission and competitive public bidding. Virtual and/or in person progress meetings will be held as needed to discuss specific final details of the design with various entities such as IT, equipment needs, door hardware and security, etc.
- Prepare a final Opinion of Probable Cost of Construction to be used as the "engineer's estimate" during the public bidding process.
- Assist Huber Heights with the bidding process, answering bidding questions and issuing addenda and clarifications.
- Submit Construction Documents to the City of Huber Heights for zoning permit review and Montgomery County for building permit review and answer any questions related to these reviews.

- Assist the City of Huber Heights with procuring both a third-party geotechnical engineering company for construction testing and building code required special inspections.

Construction Administration Phase:

- Construction Administration Services during construction include bi-weekly site visits and job progress meetings, reviewing shop drawings, answering contractor questions, preparing field reports, photographing the progress of the work, and preparing punch lists covering the work of all trades. Thirty-two (32) site visits are included and will occur on a bi-weekly basis. The number of site visits is based upon a 15-month construction schedule based with (10) months for the construction of the new addition in Phase 1 and (5) months for the interior renovation as Phase 2. Additional site visits required due to unforeseen circumstances or requested by the City of Huber Heights will be billed at an additional cost of $650 per visit.
- Preparation of Record Drawings which will be delivered in PDF format once construction is completed.

Fire Protection, Plumbing, Mechanical, and Electrical Scope of work (integrated within the phases above):

Fire Protection

•Building is currently not protected by an automatic sprinkler system.
• Provide a new sprinkler system to provide coverage throughout the existing and new areas.
• Note: Nauman & Zelinski drawings will define area of work and scope of services for a sprinkler contractor. Final permit drawings shall be by the sprinkler contractor.
• Fire line to the building will be designed by the site civil engineer.

Plumbing

• Provide new plumbing fixtures for new toilet rooms, shower rooms and clean up room.
Extend existing cold and hot water to new fixtures. Existing hot water heater to remain.
• No plumbing work in the Kitchen or Apparatus Bays.

HVAC

• Relocate existing condensing units. Existing indoor furnaces located on the 2nd floor to remain.
• Rework existing ductwork for new Officer Office, Dorm Room and Clean Up Room.
• Provide two new HVAC split systems for the addition.
• Provide new supply and return air devices.
• Proposal assumes the new Fitness room will have operable windows which will meet the natural ventilation code requirements.
• Provide new rooftop exhaust fan for new exhaust loads.
• Provide energy recovery unit for the Dorm area HVAC system to provide code ventilation air and make up air for exhaust systems.

Electrical

- Existing electrical service (120/240v 3ph) shall remain.
- Existing 30kw generator to remain.
- Provide new power distribution from existing main panel to the new addition.
- Provide new battery back-up egress fixtures throughout the facility (this allows the single automatic transfer switch to remain and we don't have to add a second one).
- Provide a new emergency power distribution panel as needed for new minimal emergency loads.
- Provide power distribution to receptacles, lighting and new HVAC equipment.
- Provide data raceway and boxes only. Data cabling by others.
- Provide station altering raceway drawings. Current system is by Locution and Locution will provide new drawings for extended devices.
- Provide new LED lighting in the Kitchen, first floor corridor and throughout the second floor. Lighting in the App Bays will remain as is.
- Provide site lighting for new parking area and space behind (west) of the existing building.

Proposal assumes:

- No Plumbing or HVAC work in the Apparatus Bays.

Proposed fees:

Lump Sum Design Fee:	**$ 256,500**
Add Alternate design fee for a new emergency generator that powers 100% of the building's needs:	**$6,500**

Reimbursable expenses and approved additional services will be invoiced as follows:

Principals, Professional and Technical	Standard Hourly Rates
Outside Consultants	As Invoiced to this firm x 1.1
Reimbursables (such as printing and plan review fees)	As Invoiced to this firm x 1.05

An estimated reimbursable expense allowance for budgeting purposes is **$3,750** and is <u>not</u> included in the Lump Sum Design Fee above.

Proposed project team:

City of Huber Heights	
Fire Division	Owner and User Group
App Architecture	Architecture, Interior Design and Construction Administration
Nauman & Zelinski, LLC	Mechanical, Electrical, Fire Prot. & Plumbing Design
Jezerinac Geers	Structural Engineering
Choice One Engineering	Civil Engineering & Surveying

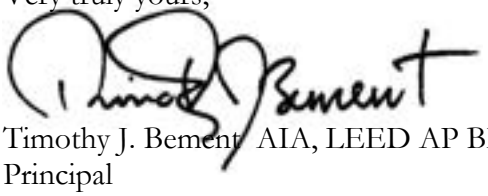
We maintain professional liability insurance, and hereby add the following: "To the maximum extent permitted by law, the Client agrees to limit the Design Professional's liability for Client

damages to the Design Professional's total fee for services. This limitation shall apply regardless of the cause of action or legal theory asserted."

Independent third-party concrete and structural steel testing and special inspections, as required by the Ohio Building Code will be provided by the City of Huber Heights. It is highly recommended that the original Geotechnical Engineer reviews the extents of the new addition and advise if additional soil borings will be necessary since the original borings were taken to cover a much smaller addition footprint.

Thank you again for this opportunity to serve the City of Huber Heights Fire Division. Please contact us if you have any questions or need additional information.

Very truly yours,



Timothy J. Bement, AIA, LEED AP BD&C
Principal

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APP ARCHITECTURE FOR THE DESIGN OF RENOVATIONS AND AN ADDITION TO FIRE STATION 23.

WHEREAS, the City of Huber Heights (the "City") has identified the need to renovate and add on to Fire Station 23 to accommodate organizational growth as well as provide amenities and features similar to other fire stations within the City; and

WHEREAS, the City has operated Fire Station 23, commonly addressed as 7435 Old Troy Pike, as a deployment and storage location for Fire/EMS equipment and personnel in the current configuration for forty years, and it has been over twenty-eight years since the last renovation; and

WHEREAS, App Architecture has worked with the Huber Heights Fire Division to provide basic cost analysis and research for additional fire stations and a preliminary review for renovation and addition to Fire Station 23, and App Architecture has been the principal architect for many recently constructed fire stations in several local communities similar to 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 enter into a contract for the design of renovations and an addition to Fire Station 23 with App Architecture at a cost not to exceed $266,750.00.

Section 2. This legislation is adopted in accordance with Section 171.12(a)(4) of the Huber Heights Codified Ordinances.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this 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 _____ , 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

AI-10186 **Topics Of Discussion** **J.**

Council Work Session

Meeting Date: 07/16/2024

City Parks - Roofing Projects/Increase Not To Exceed Amount - Maxim Roofing

Submitted By: Linda Garrett

Department:	Assistant City Manager	**Division:**	Public Works
Council Committee Review?:	Council Work Session	**Date(s) of Committee Review:**	07/16/2024
Audio-Visual Needs:	None	**Emergency Legislation?:**	No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

City Parks - Roofing Projects/Increase Not To Exceed Amount - Maxim Roofing

Purpose and Background

This legislation will authorize the award of a bid and contract to Maxim Roofing for services related to roofing projects for the Thomas Cloud Park House and the Community Park gazebo.

Fiscal Impact

Source of Funds:	Parks and Recreation Fund
Cost:	$110,000
Recurring Cost? (Yes/No):	No
Funds Available in Current Budget? (Yes/No):	Yes
Financial Implications:	

Source of Funds:	
Cost:	
Recurring Cost? (Yes/No):	
Funds Available in Current Budget? (Yes/No):	
Financial Implications:	

Attachments

Resolution

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

AUTHORIZING THE CITY MANAGER TO AWARD A BID FOR SERVICES RELATED TO THE REPLACEMENT AND REPAIR OF CITY PROPERTY LOCATED AT THE THOMAS CLOUD PARK HOUSE LOCATED AT 4707 BRANDT PIKE AND THE COMMUNITY PARK GAZEBO LOCATED AT 5401 CHAMBERSBURG ROAD FOR THE CITY OF HUBER HEIGHTS PARKS AND RECREATION DIVISION.

WHEREAS, the City of Huber Heights recognizes its obligation and need to safely maintain City properties and for efficient operations; and

WHEREAS, a competitive bidding process was utilized to obtain a reputable firm to provide the services related to roof repair and replacement; and

WHEREAS, pricing for the roof repair and replacement meets the specifications of the Parks and Recreation Division and is available through the general contractor company Maxim Roofing Co., 500 West Dayton Drive, Fairborn, Ohio 45324; and

WHEREAS, the funds for the purchase are available within the Parks and Recreation Fund for Fiscal Year 2024.

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

Section 1. The City Manager is hereby authorized to purchase contractual services related to the roof repair and replacement of City property for the Parks and Recreation Division from Maxim Roofing Co. for Fiscal Year 2024 in an amount not to exceed $110,000.00.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and 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 _____ , 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-10210 **Topics Of Discussion** **K.**

Council Work Session

Meeting Date: 07/16/2024

Thomas Cloud Park - Improvements/Splash Pad - Request For Proposals (RFP)

Submitted By: Sarah McPherson

Department:	Assistant City Manager	**Division:**	Parks/Recreation
Council Committee Review?:	Council Work Session	**Date(s) of Committee Review:**	07/16/2024
Audio-Visual Needs:	None	**Emergency Legislation?:**	No
Motion/Ordinance/ Resolution No.:			

Agenda Item Description or Legislation Title

Thomas Cloud Park - Improvements/Splash Pad - Request For Proposals (RFP)

Purpose and Background

This legislation allows City Staff to solicit bids for planned improvements to Thomas A. Cloud Memorial Park.

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:	

Attachments

Request For Proposals
Resolution

City of Huber Heights
6131 Taylorsville Rd.
Huber Heights, OH 45424

937.233.1423
937.233.1272 fax

www.hhoh.org

REQUEST FOR PROPOSALS
And
INSTRUCTIONS
RFP 24-001-P&R

City of Huber Heights
Design and Planning of Thomas A. Cloud Memorial Park

The City of Huber Heights, a municipal corporation, is soliciting professional services for design, planning, engineering services and construction oversight for improvements to Thomas A. Cloud Park including a splash pad, amphitheater, restroom and concession facility.

Attached to this RFP are the listed Instructions for Bidders/Offerors in the first eight (8) pages of this document. All potential bidders must thoroughly review and certify their understanding of the instructions and this RFP process.

GENERAL INSTRUCTIONS TO BIDDERS/OFFERORS

For the purposes of this Document, the terms "Bid" and Proposal" have the same meaning, and the terms "Bidder, Offeror, Contractor, Vendor" are intended to mean the company or firm who is the respondent Bidder for this RFP.

- The following instructions are to be considered an integral part of this proposal. Unless otherwise requested, three (3) complete copies of the written proposal need be submitted. The person signing the bid/proposal form must initial any changes or corrections made to this proposal.
- No proposal may be withdrawn or modified in any way after the bid/proposal-opening deadline. ***Quotes must remain valid for ninety (90) days after the quote date.*** Quotes submitted with a less than ninety (90) day validity will be found non-responsive and will not be considered.
- All bids/proposals must be a final cost.
- Bids/Proposals will be received no later than 10:00 AM EST, **September 5, 2024** at the City of Huber Heights 6131 Taylorsville Rd. Huber Heights, Ohio 45424 at which time they will be opened and publicly read aloud. Bids/proposals received after the above date and time, or in any other location other than the City of Huber Heights City Hall as noted above will not be considered.
- A Request for Proposal packet may be obtained from the City of Huber Heights 6131 Taylorsville Rd. Huber Heights, Ohio 45424 or from http://www.hhoh.org
- If descriptive literature is attached to the bid/proposal, bidder's name must appear on all sheets.
- A cover letter must be attached in the form of a standard business letter containing the Contractor's name, address and telephone number and must be signed with an original signature, in ink, by an individual authorized to legally bind the Contractor. The letter must contain the following information:
    - A statement describing the Contractor's legal structure (e.g. corporation, partnership) and providing federal tax identification number and principle place of business.
    - A statement that the person signing the quote certifies that he or she is the person in the Contractor's organization who has actual authority to make decisions as to matters relating to this RFP and to bind the Contractor.
    - A statement that the quote meets the minimum qualifications set forth in this RFP and accepts all requirements and terms and conditions contained in this RFP.

- A statement that the Contractor does not discriminate in its employment practice with regard to race, color, age, religion, sex, veteran status, sexual preference, national origin, or disability
- A statement that no attempt has been made or will be made by the Contractor to induce any other person or firm to submit or not submit a quote.
- A statement that indicates whether the Contractor or any of its agents has a possible conflict of interest with any city employee involved in the RFP and any ensuing Contract(s) or any other conflict of interest and, if so, an explanation of the conflict must be given.

- **Communication:** If there is any question whatsoever regarding any portion of the instructions or specifications, it shall be the bidder's responsibility to seek clarification immediately from the City of Huber Heights **No later than close of business on August 29, 2024** unless otherwise stated in the documents.

All questions shall be submitted in writing or via e-mail to the attention of Sarah McPherson, Parks Manager at smcpherson@hhoh.org If mailed, the address is as follows: City of Huber Heights ATTN: RFP Sarah McPherson, Parks Manager, 6131 Taylorsville Rd., Huber Heights, OH 45424. Answer(s) to all questions will be answered after the deadline for questions has expired, and posted to the City's web site, if applicable and feasible.

It shall be the bidder's responsibility to check the City's website (www.hhoh.org) for any and all addendums or modifications.

Under no circumstances should respondents contact City personnel or officials outside of the opportunity provided herein.

- **Proprietary Information**: Any information contained in the RFP response that is proprietary must be clearly designated. Marking of the entire response as proprietary will neither be accepted nor honored. The City cannot guarantee that all such material noted remains proprietary, particularly if it becomes a significant consideration in contract award. Information will be kept confidential only to the extent allowed by Public Records Laws of Ohio.

- Any variation from the specifications must be clearly stated by the bidder in writing and submitted with his/her proposal.

- The apparent silence of any specifications or any supplement specifications to any details or the omission of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials of first quality and correct type, size and design are to be used. All workmanship is to be of first quality. All interpretations of this specification shall be made upon the basis of this statement.

- The following bid shall be awarded based on the specifications as provided for in

Chapter 171 of the Codified Ordinances of Huber Heights so the City can determine the "lowest and best proposal". Unit prices and extensions will be verified and total checked. Unit price extension and net total must be shown. Unit price shall prevail unless otherwise stated in the proposal.

- Section 171.04 of the Codified Ordinances of Huber Heights provides for a process and description for opening, tabulating and awarding responses to RFP/bids as stated in reference:

  (a) In the case of sealed competitive bids, the bids shall be opened and tabulated publicly by the Purchasing Agent. An investigation of the responsibility of the bidders and the responsiveness of the bid shall be made as the Purchasing Agent deems necessary. The Purchasing Agent shall determine the lowest and best bid. The Purchasing Agent may reject all bids if the Purchasing Agent determines that it is in the best interest of the City to do so.

  (b) In the case of competitive proposals, the responses shall be opened publicly by the Purchasing Agent. The City may discuss the responses with the proposers to clarify responses and to obtain information needed by the City to determine the lowest and best proposal. An investigation of the responsibility of the proposers and the responsiveness of the proposal shall be made as Purchasing Agent deems necessary. The Purchasing Agent shall determine the lowest and best proposal. The Purchasing Agent may reject all proposals if the Purchasing Agent determines that it is in the best interest of the City to do so.

  (c) In the case of two-step competitive proposals, the technical responses shall be opened publicly by the Purchasing Agent. The City may discuss the responses with the proposers to clarify responses and to obtain information needed by the City to determine qualified proposers. An investigation of the responsibility of the proposers and the responsiveness of the proposal shall be made as the Purchasing Agent deems necessary.

  The Purchasing Agent shall determine the qualified proposers. The qualified proposers shall then be invited to submit price proposals which shall be opened publicly by the Purchasing Agent. The City may discuss responses with the proposers to clarify responses and to obtain information needed by the City to determine the lowest and best proposal. If appropriate, the City may request best and final offers. The Purchasing Agent shall then determine the lowest and best proposal. The Purchasing Agent may reject all proposals if the Purchasing Agent determines that is in the best interest of the City to do so.

- The City of Huber Heights reserves the right to accept, reject or waive any irregularities in the proposal and/or any and all bids received for the work contemplated herein and to accept or reject any or all proposals and/or bids. The proposal and/or bids will be compared on the basis of the total cost of the project and the award will be made to the lowest and best bidder (or bidders), provided the proposal and/or bid is reasonable and is in the best interest of the City (owner) to accept. In determining the lowest and best bid the City (owner), in its sole discretion, may consider factors, including but not limited to, the bidder's work history, (including work done under other names), experience, conduct and performance on previous contracts, management skills, ability to execute the contract properly, customer satisfaction, work on comparable projects, ability to

timely complete the work in accordance with the contract documents, the Bidder's financial condition and facilities, and the Bidder's compliance with federal, state, and local laws, rules, and regulations, (including but not limited to the Prevailing Wage Laws, Occupational Safety and Health Act, and the State of Ohio's Equal Employment Opportunity Commission requirements, as may be applicable).

- The City desires delivery of the material or services specified at the earliest possible time after the date of award. An unreasonable delivery proposal may be cause for disqualifying a bid. Each bidder shall state a definite time and avoid using terms such as "ASAP" or "approximately so many days".

- **Insurance:** The Contractor will maintain the following insurance from insurer(s) rated A- or better by A.M. Best in amounts sufficient to protect the Contractor and Owner from claims under Workers Compensation Acts and any other claims for property damage and/or bodily injury, including death, which may arise from the performance of the Work under this Subcontract, whether the Work is performed by the Subcontractor, its subcontractor, or anyone directly or indirectly employed by either of them.

  Limits of coverage to be as follows:

(a)	Workers' Compensation	Statutory
	Employers Liability/Ohio Stop Gap	$ 1,000,000
(b)	Commercial General Liability:	
	Bodily injury/property damage per occurrence	$ 1,000,000
	General Aggregate	$ 2,000,000
	Products/Completed Operations Aggregate	$ 2,000,000
(c)	Commercial Automobile Liability:	
	Combined Single Limit (including Owned, Hired, and Non-Owned Autos)	$1,000,000
(d)	Excess/Umbrella Liability (over Employer's Liability, General Liability, and Auto)	$ 1,000,000

  Liability policy requirements. The General Liability policy must be written on the current edition of ISO form CG 00 01 or equivalent. The policy shall have no modifications limiting coverage for contractual liability, damage to work performed by subcontractors, residential construction, earth movement, explosion, collapse, or underground damage. The policy shall be endorsed to provide that the General Aggregate Limit applies separately to each of the insured Contractor's projects. The Owner (including its officers, directors and employees) shall be named as Additional Insured on the General Liability policy on ISO form CG 20 10 11 85 or its equivalent, affording coverage to Additional Insured(s) for claims arising out of both ongoing and completed operations. Owner shall also receive coverage as an additional insured Contractor's Auto Liability policy. Contractor's policies shall be primary insurance as respects

Owner, and any other insurance policy that Owner may have in effect shall be deemed excess and not contributory. The General Liability policy affording coverage to Owner as Additional Insured must be maintained for three (3) years after completion of the project. If any of the Work is performed by subcontractors, Contractor shall be responsible for ensuring subcontractors comply with these insurance requirements and extend coverage to both Contractor and Owner as additionally insured.

The Contractor will submit to the Owner certificates of insurance (including a certificate of compliance from the Ohio Bureau of Workers' Compensation for Ohio subcontractors) certifying that the insurance policies required by this agreement are in force and shall be maintained for the duration of the Project. Contractor shall also provide copies of additional insured endorsement(s) as required herein. Full copies of policies shall be provided upon Owner's request. Certificates shall reflect Owner's status as an additional insured and shall provide that Owner is to be provided thirty (30) days advance written notice in the case of cancellation or nonrenewal of the required policies (10 days if cancelled due to nonpayment of premium).

Until said certificate of insurance is properly executed and delivered to the City, the Contractor shall not move its equipment or laborers onto the premises or begin performance of the work specified under an awarded agreement. If the Contractor fails to provide the required insurance, the City of Huber Heights shall have the right to disqualify the Contractor. **Proof of insurance should be included in the submitted bid documents.**

- **References**: Contractor must provide three (3) references of customers with successful implementations of similar size and scope with work performed within the past five (5) years. Please include name, address, contact and phone number. If subcontractors or business partners will be used in conjunction with the installation or maintenance of this project, please provide references as stipulated above. **References should be included in bid documents**

- **Inspection**: It is understood within this agreement that any problems such as equipment failure, unspecified maintenance, lack of performance and any other conditions outlined in the scope of service not performed by the Contractor will be under immediate review by the City of Huber Heights.

- **License and Permits**: It shall be the responsibility of the successful bidder to obtain all licenses and permits required to perform this service at no additional cost to the City of Huber Heights.

- **Timeline**: Provide an estimated, standard timeline for installation, implementation of services. **Timeline should be included in bid documents.**

- **Configuration and Pricing**: Bidder must itemize all charges for individually identifiable components of the proposed properties, including all associated installation, programming and training if applicable. Bidder must include charges for all components required to connect any applicable applications.

RFP Checklist:

Please review and check off these 10 most important items to consider when responding to an RFP for the City of Huber Heights:

	Read the *entire* document. Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; contract requirements (i.e., contract performance, insurance requirements, performance and/or reporting requirements, etc.).
	Note the procedures for communication with the City during the RFP process. All communication during the RFP process must be in writing. Offerors should not contact City personnel or officials outside of the opportunity provided in the document.
	Attend the pre-proposal conference if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the City of any ambiguities, inconsistencies, or errors in the RFP.
	Take advantage of the "question and answer" period. Submit your questions by the due date listed and view the answers given in the formal "addenda" issued for the RFP. All addenda issued for an RFP are posted on the City's website and will include all questions asked and answered concerning the RFP.
	Follow the format required in the RFP when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
	Provide complete answers/descriptions. Read and answer **all** questions and requirements. Don't assume the City or the evaluating staff will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the City of Huber Heights. The proposals are evaluated based solely on the information and materials provided in your response.
	Use the forms provided, if any. e.g., bidders submittal page, reference forms, attachment forms, etc.
	Before submitting your response, check the City's website at: www.hhoh.org to see whether any addenda were issued for the RFP.
	Review and read the RFP document again to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluating staff members and will be used to score your response.
	Submit your response on time. Note all the dates and times listed in the RFP and be sure to submit all required items on time. Late proposal responses are ***never*** accepted.

Please Note:

All potential contractors are strongly urged to submit supporting documentation as to their qualifications to perform the Scope of Work.

Certificate of Insurance, Reference List and Timeline must be attached.

If additional comments or conditions are desired, please attach a separate sheet providing details.

Include all proposed equipment specifications, showing manufacturer name, model, etc. depicting unit specifications and other pertinent information.

Certification:

The undersigned on the Bid Proposal certifies that the Instructions to Bidder has been carefully examined, is thoroughly familiar with the terms and specifications applicable to and made part of this Request for Proposal and understands and is capable of meeting the provisions within to the quality, type and grade of work requested. The undersigned further certifies the prices shown in the schedule of items contained within the Proposal/Bid are in accordance with the conditions, terms and specifications of the proposal and that any exception taken thereto may disqualify the bid.

_____	_____
Signature	Date
_____	_____
Print Name	Title
_____	_____
Email Address	Phone
_____	
Company Name	

City of Huber Heights Request for Proposals

RFP 24-001-P&R

Advertised as:

City of Huber Heights

Design, Planning and Engineering Services for Thomas A. Cloud Memorial Park

Release Date: August 13, 2024 **Closing Date: September 5, 2024**

The City of Huber Heights, a municipal corporation, is soliciting professional services for design, planning, engineering services and construction oversight for improvements to Thomas A. Cloud Park including a splash pad, amphitheater, restroom and concession facility.

1. Project Overview

Thomas A. Cloud Park has served as a hub for community recreation and leisure since 1973. In 2009 Montgomery County transferred the park to the City of Huber Heights. The park is 134 acres and located at 4707 Brandt Pk. in Huger Heights.

Since this time, the City has continued to facilitate youth sports leagues, community events, and provide leisure amenities. In 2010 a splash pad was added to the facility. The splash pad is now at the end of its useful life and repairs have begun to pile up each season. The splash pad receives a high bather load and is undersized for the hundreds of children it serves on some of our hottest days of the year.

In addition to this impending splash pad replacement, a few compounding factors have elicited the review of Thomas A. Cloud Memorial Park's amenities and usage. The City of Huber Heights is a growing mid-sized city serving both Montgomery and Miami County residents. Community feedback indicates a desire for more recreation offerings and large-scale community events. Current Park amenities can meet basic needs but offer little room to scale or enhance park offerings.

The location of Cloud Park and its many user groups contribute to a high annual visitor count. With over 300,000 visits each year, the park is the most frequented within a fifteen-mile radius, attracting more visits than John Bryan State Park and Beavercreek's Rotary Park. This patronage indicates a strong penchant for recreation within the Huber Heights Community. Though despite this community desire, the City concerts and events regularly attract significantly less visitors than other regional offerings. Many of these events are conducted elsewhere in the park system. It is believed that by utilizing Cloud Park, the City will be meeting the people's needs in their preferred location.

At the conclusion of this project, Thomas A. Cloud Memorial Park will serve as a

community and regional hub for large scale events. The entrance will offer an attractive welcome to park visitors. The splash pad will be large enough to accommodate a couple hundred children daily. The amphitheater and surrounding event space will be home to City concerts and events designed to attract crowds of over 1,000 people regularly. The space will be operational during the annual firework celebration and other large-scale festivals and events on the horizon for the residents of Huber Heights.

In addition to these additional amenities, a park usage plan will help discern layout for sport fields, identify programing opportunities and list possible amenity additions in other areas of the park that align with recreation trends and community needs.

2. Preproposal Meeting

a) There will be a required pre-proposal meeting on **August 21, 2024, at 10am**. The meeting will take place at City Hall located at **6131 Taylorsville Rd., Huber Heights, OH 45424.**

3. General Information

a) The City of Huber Heights invites qualified firms to submit proposals for the design, planning and engineering of improvements to Thomas A. Cloud Park.

b) Proposals shall be submitted in accordance with the Documents and Requirements as set forth in this formal "Request for Proposals." The Contract that will result from this “Request for Proposals” will include what is indicated in Section 6 “Scope of Work” of this RFP.

c) A City Review and Selection Committee will evaluate the proposals submitted.

d) During evaluation, the City Review and Selection Committee reserves the right, where it may serve the City's best interest, to request additional information or clarification from the Offeror, or to allow corrections of errors or omissions. Oral interviews may be conducted by the City Review and Selection Committee for the Contractors who submit a Proposal and were shortlisted.

e) Submission of a proposal indicates acceptance by the Offeror of the conditions contained in this Request for Proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the resultant contract between the City of Huber Heights and the Contractor selected.

f) There is no expressed or implied intent or obligation for the City of Huber Heights to reimburse the responding firms for any expenses incurred in preparing proposals, as well as travel expenses during interviews in response to this Request for Proposals.

g) The City of Huber Heights shall reserve the right to terminate any agreement resulting from this solicitation and subsequent action for cause

but not limited to inadequacy of performance.

4. Contact Person/Communication

a. Until the receipt and opening of proposals, the proposers' principal contact with the City of Huber Heights will be as listed below. All questions are to be submitted in writing and potential Bidders will receive copies of all questions and answers except for the questions that are considered proprietary. Questions will only be received through

i. City of Huber Heights
ii. ATTN: Sarah McPherson, Parks Manager
iii. 6131 Taylorsville Rd.
iv. Huber Heights, Ohio 45424
v. 937-237-5822
vi. Email: smcpherson@hhoh.org

b. All contacts and communication regarding the proposal should be with the above named individual only. Bidders contacting other City Staff or Officials may be disqualified for doing so.

5. Background Information

a) The City of Huber Heights, a municipal corporation, will be selecting a contractor to design, plan and engineer improvements to Thomas A. Cloud Park.

6. Scope of Work

a) The following is a list of provisions and requirements falling under the expected Scope of Work:

1) The project includes design and engineering of a splash pad with cost comparisons and plans comparing a recirculating system versus a flow-through, freshwater system.

2) The project includes design and engineering of an amphitheater, stage and greenroom space utilizing a custom or prefabricated stage and covering no smaller than 30ft by 40ft in size. The amphitheater area shall include a combination of lawn and fabricated seating that is engineered for quality viewing. The amphitheater must include infrastructure to support seasonal events with light and sound equipment.

3) The project includes design and engineering of a concession stand and restroom facility and seating patio. Restroom facility shall include a family restroom equipped with a universal changing table. The patio shall include an elevated area for handicap seating with a view of amphitheater area.

4) The project includes design and engineering of additional parking spaces, a food truck/vendor parking area and large vendor shelter ideal for housing multiple vendor booths during events.

5) Project will include plans for shade. Shade structures are expected, though plans must utilize existing tree line. Plans should remove as few healthy trees as possible to achieve construction. Plans must include planting recommendations to achieve future tree shade.

6) Project will include gateway entrance with widened road and with signage fitting for the size of the park and traffic flow along Brandt Pike. Adjustments to road and pedestrian ways should be included to increase entrance and exit ease of flow.

7) Project will include placemaking elements throughout the entirety of the park to form a cohesive environment. Elements include but are not limited to signage, a digital message board, bench and trash amenities. Themed elements may be used highlighting the unique history, culture, or natural landscape of Huber Heights.

8) The project will include security features such as cameras, emergency phones and traffic control barriers.

9) The project includes proposed use plans for the entirety of Thomas A. Cloud Memorial Park including sport league needs, passive use experiences and future program/event offerings. All areas are to be evaluated including the 9-acre parcel of recently acquired land in the southwest quadrant.

10) The project includes clear and logical phases for the execution of proposed improvements. Phases shall include an estimate of phase cost, construction duration and any pertinent rational for the ordering and grouping of projects.

Proposals may include any or all of the proposed scope items. The City may, at their discretion, award each item together or separately.

6. Public Input Requirements:

a) Once awarded, contractor is required to consider insight from current stakeholder groups utilizing the Park; including but not limited to:

The YMCA at the Heights

Huber Heights Softball Baseball Association

Huber Heights Soccer Association

Warriors Soccer Club

7. Evaluation of Proposals and Required Information

a) Proposals submitted will be evaluated by the City Review and Selection Committee.

b) The Committee may call for oral interviews. The City reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether or not said proposal is selected.

c) The evaluation factors considered in the selection process will weigh heavily into the City's decision-making process. These evaluation factors include the contractor's references/proven ability to deliver quality projects, timeline, costs, and fulfillment of requested project elements.

8. Format for Proposals

a) The offeror will submit a comprehensive and thorough written plan and design for Improvements to Thomas A. Cloud Memorial Park.

b) Proposals submitted will be evaluated by the City Review and Selection Committee and are expected to be in the following format:

- Business Cover Letter including all necessary elements described in the general instructions section. (See page 2 and 3 of packet)
- Total and Final Cost for Proposal
- Firm's Relevant Project Experience and Pertinent Industry Credentials
- Firm's References
- Subconsultants and References
- Project Team – Listing of individuals working on the project and their roles and responsibilities. Identifying points of contact for public input process and future construction oversight.
- Proposed Deliverables
- Proposed Deliverables Timeline
- Proposed Approach to the Project -describe subsequent meetings, public feedback techniques, construction oversight, and other actions the firm will take to create the described plan.
- Statement of any deviations or variation from the project elements listed in this RFP.
- Itemized Cost for Proposal

c) Please refer to the general instructions sections of the bid packet for all necessary items. Information not listed above may be included in any section of the proposal that the offeror best deems fit.

9. Right to Reject Proposals

a) Submission of proposals indicates acceptance by the Offering Firm of the Conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the subsequent Agreement between the City of Huber Heights and the selected firm.

b) The City of Huber Heights reserves the right to reject any or all proposals and to award to the proposer the City determines to be most qualified and whose award of the contract will be in the best interests of the City.

c) Late proposals will not be accepted. Offerors are held responsible that their proposals arrive at the City of Huber Heights on or before the designated date and time.

10. Withdrawal of Proposals

a) Requests to withdraw proposals received after the date and time set for bid opening will not be considered. Only requests to withdraw proposals prior to that date and time will be considered.

11. Contract Termination

a) The City of Huber Heights reserves the right to terminate any subsequent Agreement or Contract as a result of this RFP if the Contractor does not perform as required by the Terms and Conditions therein.

Exhibit A

Entirety of Thomas A. Cloud Park selected for use planning and placemaking elements.

Exhibit B

The Southeast quadrant of Thamas A. Cloud Memorial Park selected for improvements.

Exhibit C

An additional 9 acres of Thomas A. Cloud Memorial Park, acquired in 2021, selected for use planning and amenities as proposed.

Exhibit D

Marketing Concept Images

The contractor may use images as guide and adjust design as engineering specifications require.

*****End of Document*****

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

AUTHORIZING THE CITY MANAGER TO SOLICIT, ADVERTISE, AND RECEIVE PROPOSALS FROM QUALIFIED PROFESSIONAL CONSULTANTS FOR THE DESIGN, PLANNING, ENGINEERING AND CONSTRUCTION OVERSIGHT OF IMPROVMENTS TO THOMAS A. CLOUD MEMORIAL PARK.

WHEREAS, the City of Huber Heights has experienced tremendous growth during the last decade; and

WHEREAS, Thomas A. Cloud Memorial Park experiences a high volume or patronage seeking recreation opportunities; and

WHEREAS, the City desires to provide recreation and event space to meet the needs of the growing community and park patronage; and

WHEREAS, it is necessary for the City to undertake improvements to Thomas A. Cloud Memorial Park in order to anticipate future growth and increased desires for recreation offerings.

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

Section 1. The City Manager is hereby authorized to solicit, advertise and receive responses from qualified vendors in accordance with Section 171.03(a)(1) of the Codified Ordinances of Huber Heights for the design, planning, engineering and construction oversight of improvements to Thomas A. Cloud Memorial Park.

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 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 _____, 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-10206 **Topics Of Discussion** L.

Council Work Session

Meeting Date: 07/16/2024

Donation Of Real Property - Executive Boulevard

Submitted By: Aaron Sorrell

Department: Assistant City Manager

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Donation Of Real Property - Executive Boulevard

Purpose and Background

This legislation authorizes the City to accept the donation of approximately four (4) acres of land along Executive Boulevard, per the City's development agreement with Metro Rose, LLC. This legislation also directs City Staff to take the necessary steps to develop a restaurant or brewery-type establishment on said land.

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:	

Attachments

Resolution

Exhibit A

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

AUTHORIZING THE ACCEPTANCE OF DONATED LAND OF APPROXIMATELY FOUR (4) +/- ACRES, IDENTIFIED AS PARCEL ID NUMBER P70 01820 0016, PURSUANT TO A DEVELOPMENT AGREEMENT WITH METRO ROSE, LLC.

WHEREAS, on August 21, 2023, the City of Huber Heights ("City") Council passed Resolution No. 2023-R-7306 authorizing the City to enter into a Development Agreement with Metro Rose, LLC ("Developer") for the purpose of Developer constructing a mixed-use development; and

WHEREAS, on November 21, 2023, the City entered into a Development Agreement with Developer attached as Exhibit A (the "Agreement"); and

WHEREAS, pursuant to the Agreement, Developer agrees to transfer title and deed of approximately four (4) +/- acres of real property, identified as Parcel ID No. P70 01820 0016, and being all of Lot 6 of the Plat of Newbauer Park Section Two as recorded in Plat Book 243, Page 30 in the Plat Records of Montgomery County, Ohio, and as more fully described in Exhibits D-1 and D-2 attached to the Agreement (the "Donated Property") for the purpose of the City facilitating and/or supporting the construction of a restaurant or brewery-type establishment; and

WHEREAS, the City agrees to accept title and deed to the Donated Property; and

WHEREAS, upon receiving title, the City agrees to take steps necessary to facilitate and/or support the development of the Donated Property; and

WHEREAS, the City Council has determined it is in the City's best interest to accept the Donated Property for the purpose of facilitating and/or supporting the construction of a restaurant or brewery-type establishment.

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

Section 1. The City Council accepts transfer of the Donated Property and directs the City Manager to take the necessary steps to acquire title and deed to the Donated Property.

Section 2. The City Council authorizes the development of the Donated Property and directs the City Manager to take the necessary steps for facilitating and/or supporting the construction of a restaurant or brewery-type establishment.

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 _____ , 2024;
_____ Yeas; _____ Nays

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

EXHIBIT A

DEVELOPMENT AGREEMENT

by and between

CITY OF HUBER HEIGHTS, OHIO

and

METRO ROSE, LLC

relating to

NEWBAUER PROPERTY MIXED-USE DEVELOPMENT

---

dated as of

_____, 2023

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DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** (this "*Agreement*") is made and entered into this _____ day of _____, 2023 (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 and **METRO ROSE, LLC**, an Ohio limited liability company (the "*Developer*" and together with the City, the "*Parties*" and each of the Parties individually referred to herein as a "*Party*"), under the circumstances summarized in the following recitals (terms used but not defined in the Recitals shall have the meaning set forth in Section 1.2):

RECITALS

WHEREAS, the Developer, through its affiliate, Metropolitan Holdings Acquisitions LLC, has entered into a purchase agreement with Nancy A. Newbauer, Trustee of The Ruth L. Newbauer Trust A and B, dated July 10, 1991 and Nancy A. Newbauer, Successor Trustee of The John S. Newbauer Trust, collectively the Seller, dated July 10, 1992, as such purchase agreement may hereafter be reasonably modified, extended or amended (the "*Purchase Agreement*") for the purpose of acquiring approximately 25.30 contiguous acres of real property located within the City (which real property is described on **EXHIBIT A** attached hereto and is collectively referred to herein as the "*Newbauer Property*" or the "*Property*"); and

WHEREAS, the Developer and City propose to create a mixed-use development of commercial and housing uses (the "*Mixed-Use Development*") on the Property, and following acquisition of the Property and approval and recordation of a minor subdivision and lot split thereto, the Developer proposes to construct, or cause to be constructed, on an approximate 21.3 acre portion of the Property, an approximate 320+/- unit apartment development project (the "*Multifamily Project*"), a sample depiction of which appears on **EXHIBIT B** attached hereto; and

WHEREAS, the City has determined that the construction of the Multifamily Project is expected to result in the creation of employment opportunities within the City as well as the creation of various types of housing for its residents; and

WHEREAS, pursuant to the TIF Statute, City Council heretofore passed (i) Ordinance No. 2003-O-1409 on April 28, 2003 (the "*Original TIF Ordinance*") thereby exempting from taxation any improvements to the real property subject to the Original TIF Ordinance (which includes the Property) and requiring the current and future property owners of such real property to make service payments in lieu of taxes (those payments, and any other payments received by the City in connection with the TIF Ordinance under Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, or any successor provisions thereto, as the same may be amended from time to time, are collectively referred to as the "*TIF Payments*") and (ii) Ordinance No. 2020-O-2456 on December 14, 2020 (the "*Amendment to the Original TIF Ordinance*"), pursuant to Ohio Revised Code Section 5709.51, to extend the exemption from taxation of improvements to each parcel under the Original TIF Ordinance for a period of thirty (30) years (the Original TIF Ordinance and the Amendment to the Original TIF Ordinance are collectively referred to herein as the "*TIF Ordinance*"); and

WHEREAS, City Council heretofore adopted Resolution No. 94-R-1453 on June 20, 1994, declaring a certain area within the City to be a Community Reinvestment Area ("CRA #7" which is also referred to as a Pre-1994 CRA), which CRA #7 was amended by Resolution No. 2010-R-5333, adopted on September 27, 2010, as modified by Resolution No. 2015-R-6195, adopted on June 8, 2015, and Resolution No. 2021-R-7036, adopted on September 13, 2021, and as amended by Resolution No 2022-R-7211, adopted on December 15, 2022 (collectively, the "*CRA Legislation*"); and

WHEREAS, the Property, in its entirety, is located within CRA #7; and

WHEREAS, pursuant to the CRA Legislation, the City granted tax exemptions within CRA #7 for improvements to real property, as authorized by the CRA Statute, as follows: (i) a ten (10) year, 100% exemption for the remodeling of any dwelling existing as of June 20, 1994, containing not more than two family units upon which the cost of remodeling is at least three thousand dollars ($3,000.00), as described in division (A) of Section 3735.67 of the Ohio Revised Code, (ii) a twelve (12) year, 100% exemption for every dwelling containing more than 2 units, commercial or industrial properties, upon which the cost of remodeling is at least five thousand dollars ($5,000.00) as described in division (B) of Section 3735.67 of the Ohio Revised Code, and (iii) a fifteen (15) year, 100% exemption for the construction of every commercial or industrial structure as described in division (C) of Section 3735.67 of the Ohio Revised Code, (collectively, the "*CRA Exemption*"); and

WHEREAS, the CRA Exemption is applicable to a mixed-use development on the Property, which the Parties acknowledge would include the construction of the Multifamily Project, including but not limited to its approximate 320+/- unit apartment development contained in multiple dwellings (with each such structure having more than two residential units) and located collectively on one parcel, amenity building(s), and accessory structure(s); and

WHEREAS, the City wishes to confirm that Multifamily Project proposed to be constructed upon the Property is eligible for the CRA Exemption so as to allow the Developer to acquire the Property and to develop the Multifamily Project in reliance on the availability of the CRA Exemption under the terms set forth in the CRA Legislation and subject to Ohio law governing the CRA Exemption; and

WHEREAS, the Parties have determined to enter into this Agreement to provide for the construction of the Multifamily Project, to confirm the availability of the CRA Exemption to support the Multifamily Project and to provide for the payment of Minimum Service Payments; and

WHEREAS, the City, by [Ordinance/Resolution] No. _____ passed by City Council on _____, 2023 authorized the execution and delivery of this Agreement.

NOW, THEREFORE, in consideration of the premises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree and obligate themselves as follows:

(END OF RECITALS)

ARTICLE I

DEFINITIONS

Section 1.1 Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 shall have the meanings set forth in Section 1.2 unless the context or use clearly indicates another meaning or intent.

Section 1.2 Definitions. As used herein:

"*Agreement*" means this Development Agreement dated as of the Effective Date, by and between the City and the Developer.

"*Apartment Housing Complex*" means collectively all of the buildings and structures, or portion thereof, occupied or constructed as apartments or living units within one or more dwellings or multi-unit housing structures, to be occupied by multiple families or occupants, and located on the Property, or a subdivided portion thereof. It shall also include any building constructed as a dedicated amenity or accessory used to support and sustain the operation of an apartment housing community on the Property. For the avoidance of doubt, it shall not include any building or structure constructed on the Restaurant Parcel.

"*City*" means the City of Huber Heights, Ohio, an Ohio municipality.

"*City Attorney*" means the City Attorney of the City or any person serving in an interim or acting capacity with respect to that office.

"*City Codified Ordinances*" means the Codified Ordinances of the City, as amended and supplemented from time to time.

"*City Council*" means the City Council of the City.

"*City Default*" shall have the meaning set forth in Section 7.2.

"*City Manager*" means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

"*County*" means the County of Montgomery, Ohio.

"*County Auditor*" means the County Auditor of the County or any person serving in an interim or acting capacity with respect to that office.

"*County Recorder*" means the County Recorder of the County or any person serving in an interim or acting capacity with respect to that office.

"CRA #7" shall have the meaning set forth in the Recitals.

"CRA Exemption" shall have the meaning set forth in the Recitals.

"CRA Legislation" shall have the meaning set forth in the Recitals.

"*CRA Statute*" means, collectively, Sections 3735.65 through 3735.70 of the Ohio Revised Code, and those sections as each may hereafter be amended from time to time.

"*Declaration*" means the Declaration of Covenants (which shall be substantially in the form attached hereto as **EXHIBIT C**).

"*Developer*" means Metro Rose, LLC, an Ohio limited liability company.

"*Developer Default*" shall have the meaning set forth in Section 7.1.

"*Developer Mortgage*" shall have the meaning set forth in Section 8.5.

"*Developer Mortgagee*" shall have the meaning set forth in Section 8.5.

"*Development Completion Deadline*" shall have the meaning set forth in Section 4.5.

"*First Annual MSP Invoice Deadline*" shall have the meaning set forth in Section 6.3(b).

"*Fixture Maintenance Fee*" shall have the meaning set forth in Section 4.4(d).

"*Improvements*" shall have the same meaning as set forth in Ohio Revised Code Section 5709.40(A)(4).

"*Minimum Service Payment*" means each payment required to be made to the City pursuant to Section 6.3(c).

"Minimum Service Payment Obligation" shall have the meaning set forth in Section 6.3.

"Mixed-Use Development" shall have the meaning set forth in the Recitals.

"*MSP Invoice Deadline*" shall have the meaning set forth in Section 6.3(b).

"*MSP First Payment Year*" means the calendar year immediately following the first calendar year in which any type of certificate of occupancy is issued for the first structure that is a portion of the Apartment Housing Complex, provided that the structure is exempted from real property taxation for that tax year pursuant to the CRA Resolution and in accordance with this Agreement. For example, if the first certificate of occupancy issued is a temporary certificate of occupancy for the Apartment Housing Complex and that certificate of occupancy is issued in December 2024, the MSP First Payment Year will be calendar year 2025, provided the Apartment Housing Complex is subject to the CRA Exemption for tax year 2025 (property tax payment year 2026).

"*MSP Last Payment Year*" means the 14th year after the MSP First Payment Year. For example, if the MSP First Payment Year is calendar year 2026, the MSP Last Payment Year is calendar year 2040..

"*Multifamily Project*" means the Apartment Housing Complex built and owned under a common or affiliated owners, and operated and managed collectively under a common brand or similar community name.

"*Multifamily Project Site*" shall have the meaning set forth in Section 2.3.

"*Notice Address*" means:

as to the City:	City of Huber Heights, Ohio 6131 Taylorsville Road Huber Heights, Ohio 45424 Attention: City Manager Telephone: (937) 233-1423 Facsimile: (937) 233-1272
With a duplicate to:	City of Huber Heights-Law Department 2700 Kettering Tower Pickrel Schaeffer & Ebeling Dayton, Ohio 45423 Attention: Law Director Telephone: (937) 223-1130
as to the Developer:	Metro Rose, LLC 1429 King Avenue Columbus, Ohio 43212 Attention: Matthew R. Vekasy Telephone: (614) 488-1900 Facsimile: (614) 488-1905 Email: mvekasy@metropolitanholdings.com
With a duplicate to:	Andrew Lemmon, CPA Metropolitan Holdings 1429 King Avenue Columbus, Ohio 43212 Telephone: (614) 488-1900 Facsimile: (614) 488-1905 Email: alemmon@metropolitanholdings.com Vorys, Sater, Seymour and Pease LLP c/o Scott Ziance, Esq. 52 East Gay Street Columbus, OH 43215 Phone: 614-464-8287 Email: sjziance@vorys.com

"*Option Period*" shall have the meaning set forth in Section 4.5.

"*Owner*" shall have the meaning set forth in Section 2.3.

"*Parties*" means, collectively, the City and the Developer.

"*Permitted Use*" shall have the meaning set forth in Section 4.5.

"Purchase Agreement" shall have the meaning set forth in the Recitals.

"*Real Property Tax Exemption Recipient*" shall have the meaning set forth in Section 5.3.

"*Repurchase Option*" shall have the meaning set forth in Section 4.5.

"*Restaurant Parcel*" means, collectively, all of the buildings and structures, or portion thereof, not occupied or constructed as apartments, living units or associated uses connected to the Multifamily Project or the Apartment Housing Complex, and specifically designated for development of acceptable commercial, non-residential uses as set forth in Section 4.5(b), and to be located on an independent designated parcel following an approval and recordation of a lot split and minor subdivision of the Property.

"*Right of First Refusal*" shall have the meaning set forth in Section 4.5.

"*Second Annual MSP Invoice Deadline*" shall have the meaning set forth in Section 6.3(b).

"*Sidewalk Fee-in-Lieu*" shall have the meaning set forth in Section 4.4(f).

"*State*" means the State of Ohio.

"*TIF Exemption*" means the exemption from real property taxation for the Improvements as authorized by the TIF Statute and the TIF Ordinance.

"*TIF Ordinance*" means, collectively, the Original TIF Ordinance (Ordinance No. 2003-O-1409 passed by the City Council on April 28, 2003 in Montgomery County, Ohio), and the Amendment to the Original TIF Original Ordinance (Ordinance No. 2020-O-2456 passed by the City Council on December 14, 2020 in Montgomery County, Ohio).

"*TIF Payments*" means those monies distributed by the County to the City in respect of the TIF Exemption and which will include service payments in lieu of taxes remitted by owners of real property subject to the TIF Exemption and any other payments received by the City in connection with the TIF Ordinance under Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, or any successor provisions thereto, as the same may be amended from time to time.

"*TIF Statute*" means, collectively, Sections 5709.40, 5709.42, 5709.43 and 5709.51 of the Ohio Revised Code, and those sections as each may hereafter be amended from time to time.

"*Waived Assessments*" shall have the meaning set forth in Section 4.12.

Section 1.3 Interpretation. Any reference in this Agreement to the City or to any officers of the City includes those entities or officials succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State, a section, provision or chapter of the Ohio Revised Code, or a section or provision of the City Codified Ordinances includes the section, provision or chapter as modified, revised, supplemented or superseded from time to time; *provided*, that no amendment, modification, revision, supplement or superseding section, provision or chapter will be applicable solely by reason of this paragraph if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "*hereof*", "*hereby*", "*herein*", "*hereto*", "*hereunder*" and similar terms refer to this Agreement; and the term "*hereafter*" means after, and the term "*heretofore*" means before, the date of this Agreement. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise. References to articles, sections, subsections, clauses, exhibits or appendices in this Agreement, unless otherwise indicated, are references to articles, sections, subsections, clauses, exhibits or appendices of this Agreement.

(END OF ARTICLE I)

ARTICLE II

GENERAL AGREEMENT AND TERM

Section 2.1 General Agreement Among Parties. For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended arrangements between the Parties, the Parties intend to and shall cooperate in the manner described herein to facilitate the design, financing, construction, acquisition and installation of the Multifamily Project.

Section 2.2 Term of Agreement. This Agreement shall become effective as of the Effective Date and will continue until the Parties' respective obligations set forth herein have been fulfilled, unless earlier terminated in accordance with this Agreement.

Section 2.3 Declaration of Covenants.

(a) Filing. It is intended and agreed, and it will be so provided by the Developer in the Declaration relating to the portion of the Property upon which the Multifamily Project is constructed (the "*Multifamily Project Site")* that certain covenants set forth herein shall hereafter be binding upon owners of the Multifamily Project Site (each, including the Developer, during its period of ownership of the Multifamily Project Site, an "*Owner*"). Except as otherwise provided in the Declaration, the covenants set forth in the Declaration are hereby incorporated into this Agreement by this reference.

(b) Termination. Upon satisfaction of the obligations of the Developer related to the Multifamily Project to make the TIF Payments and the Minimum Service Payments, the City will, upon the request of the Developer or an Owner, execute an instrument in recordable form evidencing the termination of the Declaration with respect to the Property, or any applicable

portion thereof, and releasing the covenants running with the land as set forth in the Declaration with respect to the Developer's or that Owner's portion of the Property.

(END OF ARTICLE II)

ARTICLE III

REPRESENTATIONS AND COVENANTS OF THE PARTIES

Section 3.1 Representations and Covenants of the City. The City represents and covenants that:

(a) It is a municipal corporation duly organized and validly existing under the Constitution and applicable laws of the State and its Charter.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to it that would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. That execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to it, including its Charter, and does not and will not conflict with or result in a default under any agreement or instrument to which it is a party or by which it is bound.

(d) This Agreement has, by proper action, been duly authorized, executed and delivered by it and all steps necessary to be taken by it have been taken to constitute this Agreement, and its covenants and agreements contemplated herein, as its valid and binding obligations, enforceable in accordance with their terms.

(e) There is no litigation pending or threatened against or by it wherein an unfavorable ruling or decision would materially adversely affect its ability to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) Ordinance/Resolution No. _____ passed by City Council on _____, 2023 authorizing the execution and delivery of this Agreement, has been duly passed and is in full force and effect as of the Effective Date.

Section 3.2 Representations and Covenants of the Developer. The Developer represents and covenants that:

(a) It is a for profit limited liability company duly organized and validly existing under the applicable laws of the State.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to it that would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. That execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the Developer and does not and will not conflict with or result in a default under any agreement or instrument to which it is a party or by which it is bound.

(d) This Agreement has, by proper action, been duly authorized, executed and delivered by it and all steps necessary to be taken by it have been taken to constitute this Agreement, and its covenants and agreements contemplated herein, as its valid and binding obligations, enforceable in accordance with their terms.

(e) It is not aware of any litigation pending or threatened against or by it wherein an unfavorable ruling or decision would materially adversely affect its ability to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor entity.

(END OF ARTICLE III)

ARTICLE IV

MULTIFAMILY PROJECT

Section 4.1 General. The Developer agrees that it will proceed in good faith and with all reasonable dispatch to design, finance and construct, or cause to be designed, financed and constructed, the Multifamily Project and to perform any and all of its duties and obligations relating to the Multifamily Project in a manner consistent with this Agreement, subject to market conditions as they may exist from time to time during the term of this Agreement.

Section 4.2 Multifamily Project. Subject to economic conditions supporting the development of the Multifamily Project and the Developer securing adequate approvals, including, but not limited to, approvals from any jurisdiction to which the Multifamily Project is subject, including any zoning changes or variance, as each are determined by the Developer in its sole and complete discretion, the Parties acknowledge and agree that the Multifamily Project that will be developed, or caused to be developed, by the Developer and is expected to be approved by the City (which approval will not be unreasonably conditioned, delayed or withheld) as follows:

(a) The Developer will construct an approximate 320+/- unit Apartment Housing Complex on the Multifamily Project Site. The Multifamily Project is targeted for completion and available for occupancy in December 2029, or as may be reasonably economically feasible to complete at any time before or after that estimated date. The Developer estimates that the Multifamily Project will have a total fair market value of approximately Forty Million Five Hundred Sixty Thousand ($40,560,000.00) dollars upon completion.

(b) The Developer anticipates that approximately 100 temporary jobs will be created in connection with the construction of the Multifamily Project and approximately 4 permanent jobs will be created at the Multifamily Project when it is fully completed and occupied.

Section 4.3 Submittal of Plans for Development Project. For the Multifamily Project, the Developer shall prepare and submit a site plan, architectural rendering(s), project zoning and design standards, and related development plans to the City, in such detail as is reasonably necessary for review and approval by appropriate City Boards or Commissions in accordance with the ordinary exercise of their respective rights and duties, all pursuant to and in accordance with the pertinent City Codified Ordinances.

Section 4.4 Installation of Utilities, Roadways, Sidewalks and Streetlights. To support the development of the Multifamily Project, including the installation of utilities, roadways, sidewalks and streetlights, each Party shall have the responsibilities set forth below:

(a) Water. Except as otherwise provided herein, at no cost to the City, it shall be the obligation of the Developer to construct the water lines, hydrants, valves, and related appurtenances within the Multifamily Project to service only the Apartment Housing Complex, which water lines, hydrants, valves, and related appurtenances shall be installed and inspected pursuant to plans and specifications approved by the City Engineer in accordance with the City's standard requirements. The domestic water network will be composed of a tap connection and public extension within a recorded public easement onto the Apartment Housing Complex portion of the Property, connecting to a municipal utility provider-approved meter and backflow assembly, generally thereafter further consisting of an appropriately sized underground fire water loop routed throughout the site and to building structures within a recorded public easement, servicing fire hydrants, fire sprinkler systems, standpipes and other emergency connections, as well as an appropriately sized underground private water loop routed throughout the site and to building structures servicing the domestic and potable water infrastructure requirements. The City hereby confirms that it will supply water services to the Multifamily Project under the terms and

conditions that it supplies such services to similarly situated customers and that it has, and will have, sufficient capacity to supply such services to the Multifamily Project during the term of this Agreement.

(b) Sanitary Sewer. Except as otherwise provided herein, at no cost to the City, it shall be the obligation of the Developer to construct the sanitary sewer lines and related appurtenances within the Multifamily Project to service exclusively the Apartment Housing Complex, which sanitary sewer lines and related appurtenances shall be installed and inspected pursuant to plans and specifications approved by the City Engineer in accordance with the City's standard requirements and will be dedicated and an easement granted to the City. The City hereby confirms that it will supply sanitary sewer services to the Multifamily Project under the terms and conditions that it supplies such services to similarly situated customers and that it has, and will have, sufficient capacity to supply such services to the Multifamily Project during the term of this Agreement.

(c) Storm Sewer. Except as otherwise provided herein, at no cost to the City, the Developer shall provide to the City storm sewer drainage easements, as necessary, and will dedicate a storm sewer collection system and related onsite detention and/or retention ponds to the City which will be designated on the detailed development plan(s) and plat(s) to service the Apartment Housing Complex of the Multifamily Project. The Developer shall provide all of the detention to service the Apartment Housing Complex for the Multifamily Project on the Property and the City shall not require Developer to handle any off-site detention or detention from portions of the Property not dedicated to use as the Apartment Housing Complex. The exact location and size of such storm sewer drainage easements and on-site ponds shall be determined by (i) the detailed development plan(s) and final plat(s) as approved by the City, consistent with the zoning thereof, as herein provided, (ii) engineering standards and (iii) all other applicable rules and

regulations. Except for underground storm sewer pipes, the Developer shall be responsible for all maintenance of the storm sewer management system (including but not limited to easements and ponds) located within the Property and servicing the Apartment Housing Complex of the Multifamily Project.

Each Party covenants and agrees that all roadway, utility and other construction and development work undertaken by that Party (or any third-party upon the direction of that Party) will be designed and performed in such a manner as not to disrupt or otherwise interfere with any existing storm sewer drainage systems (surface, field tile or other) on or off of the Property.

(d) Streetlights. The City and Developer have an interest to define the area in which the Apartment Housing Complex is located as a uniquely identifiable area through the utilization of decorative streetlights. The City and Developer agree to work together to define this concept, and the City agrees to advance the design, construction, and installation of such decorative streetlights. The costs associated therewith shall be shared amongst all benefiting property owners in accordance with provisions of City of Huber Heights Ordinance No. 90-O-419 as well as Chapter 727 of the Ohio Revised Code; unless otherwise agreed to by the Parties. The Developer will annually reimburse the City, at a cost not to exceed $10,152 annually, its proportionate share of the costs of the fixture maintenance and electric utility to service the streetlights located along the Developer's frontage along Executive Boulevard and servicing the Apartment Housing Complex (the "*Fixture Maintenance Fee*"). The Fixture Maintenance Fee shall be charged as a single, annual fee to the Developer and any successor as set forth in the Declaration, and shall not be due until at least sixty (60) days after the Developer receives a written invoice from the City setting forth the amount of the Fixture Maintenance Fee for that year in accordance with this Section.

(e) Roadways.

(i) Private Roads. Except as otherwise provided herein, all private drives and internal roads on the Property servicing the Apartment Housing Complex within the Multifamily Project shall be constructed by the Developer, at no cost to the City, as needed for its intended use of the Multifamily Project. All private drives and internal roads servicing the Apartment Housing Complex shall be (A) constructed in accordance with the standards customarily employed by a multi-family developer for projects of a similar scope and size, (B) designed in accordance by a licensed professional engineering firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of Ohio, and (C) located in accordance with final development plans and permits approved by the City.

(ii) Public Roads on Property. If the Parties agree that the construction of any public roads or public road modifications are required on the Property, all such public roads or public road modifications on the Property shall be constructed by the Developer, at no cost to the City, in accordance with City standards, and as may be applicable and appropriate to the type of road being constructed. Any such public roads or public road modifications constructed on the Property under this Agreement shall be (A) located within current or future dedicated right of way, and (B) reviewed, inspected and approved by the City.

(iii) Off-Site Roadway Improvements. The City does not anticipate that any roadway improvements will be needed outside the boundary of the Property as a result of the Multifamily Project. In no event shall the Developer be responsible for constructing, or causing the construction of, if applicable, any future turn lane at entryways as may be

required to effectively and efficiently operate The Rose Music Center at The Heights even if said improvements benefit, directly or indirectly, the Apartment Housing Complex.

(f) Pedestrian Sidewalks. Developer shall at its sole cost design and install sidewalks along the Executive Boulevard frontage of the portion of the Property servicing the Apartment Housing Complex. All pedestrian sidewalks shall be constructed in accordance with the City standards and the Americans with Disabilities Act, as applicable, and in accordance with final development plans and permits approved by the City. Alternatively, since installation of a new pedestrian sidewalk or a multipurpose path along the frontage of Executive Boulevard may not be immediately required, and deferment of installation would be beneficial to the comprehensive or long range planning efforts of the City, and further extending the lifespan of the infrastructure within the public right-of-way, the Developer, with the consent of the City, may opt to make a one-time payment of a sidewalk fee-in-lieu of $60.00 per lineal foot of frontage of the portion of the Property servicing the Apartment Housing Complex (the "*Sidewalk Fee-In-Lieu*"). The Developer's option to pay the Sidewalk Fee-In-Lieu shall expire upon either (i) commencement of installation of sidewalks along Executive Boulevard or (ii) the occupancy of the last structure to be built as part of the Apartment Housing Complex. The City shall construct or cause to be constructed pedestrian sidewalks or a multipurpose path of the same design and quality along the northern side of Executive Boulevard, commencing at the eastern property line of the Property, and extending eastward until the intersection of Executive Boulevard and SR-201 Brandt Pike.

(g) Cross Easements for Utility Services. The Parties agree among themselves to grant, without charge, reciprocal cross-easements or easements to public or private utilities, as appropriate, for construction of utilities described in this Section 4.4, or other public or private utilities to service the Multifamily Project; *provided*, *however*, that all easements shall be within

or adjacent to the various proposed public roads or driveway rights-of-way, as set forth on the revised basic development plan for the Multifamily Project, except as may otherwise be reasonably necessary to assure utility services to all parts of the Apartment Housing Complex. Easements for surface drainage shall follow established water courses, unless otherwise agreed to by the affected Party. The Developer shall restore any easement areas to a condition which is reasonably satisfactory to the City promptly following any construction work by the Developer. The City shall restore any easement areas following any construction work by the City in accordance with the City Codified Ordinances.

(h) Dedication. All public utilities and public roadways (including related rights-of-way) installed and/or constructed within the Multifamily Project (except the utility cross easements described in Section 4.4(g)) shall be dedicated (free and clear of any liens, encumbrances and restrictions except as may be permitted in writing by the City) to the City, which agrees to accept such dedication, and recorded with the County Recorder at such time as is consistent with the City Codified Ordinances and the terms of this Agreement.

(i) Rezoning. The Parties acknowledge that the Property has been rezoned from "PEP" – Planned Employee Park District to "PM" – Planned Mixed-Use District to permit the Multifamily Project.

(j) Cooperation. The City agrees to work cooperatively with the Developer to support the Mixed-Use Development and the Multifamily Project and timely review and act on any requests for City approvals, permits or inspections.

Section 4.5 Developer Obligations.

(a) The Developer shall be responsible for developing the Apartment Housing Complex and the Multifamily Project in accordance with the detailed development plans, as may

be modified from time to time, and as such plans are approved by the City as hereinbefore provided. Except as otherwise provided in this Agreement, the Developer shall provide all funds necessary to develop the Apartment Housing Complex and to design, finance and construct the Apartment Housing Complex of the Multifamily Project. Unless a later date applies to a given obligation, as expressly set forth in this Agreement, the obligations under this Agreement of the Developer shall, as to the Multifamily Project, commence on the later of (i) the first date on which all titles to the parcel(s) upon which the Multifamily Project is to be constructed is/are transferred to the Developer as evidenced by the recordation of the deed(s) to said parcel(s); or (ii) the Effective Date of this Agreement.

(b) The Developer agrees to transfer, and the City agrees to accept, title and deed of an approximately 4+/- acre portion of the Property as approximately described on **EXHIBIT D-1** attached hereto and generally shown and depicted on **EXHIBIT D-2** attached hereto (the "*Restaurant Parcel*") to the City for the amount of zero dollars and no cents ($0.00). The Restaurant Parcel shall be transferred to the City in "as-is" condition. For the purposes of this agreement, the term "as-is," shall mean after the Developer's performance of maintenance activities including the cutting of high grass, weeds, and brush, and the Developer's removal of any existing minor trees or scrub along the frontage of the Restaurant Parcel for increased visibility to the parcel or physical access that do not constitute creation of impacts, are not considered preserved trees defined under City Codified Ordinance Section 1182.11, and do not constitute commencement of any permanent construction or activity constituting regulated land disturbance on the Restaurant Parcel. Upon receiving title to the Restaurant Parcel, the City agrees, as part of the Mixed-Use Development, to facilitate and cause development of the Restaurant Parcel by an entity that will construct and operate on the parcel a full-service restaurant or brewery-type

establishment (or a reasonably similar establishment of character and quality consistent with a Mixed-Use Development within an "entertainment district") (each a "*Permitted Use*"). The City shall not allow on the Restaurant Parcel any of the prohibited uses identified within **EXHIBIT F** attached hereto and any such use so identified shall not constitute a Permitted Use. The City, at no cost to the Developer, shall endeavor to cause the development of the Restaurant Parcel for a Permitted Use. If such development is not materially demonstrating timely and commercially reasonable and good faith efforts of advancement through the City's development planning commission, building permit review process, under construction with active building permit(s), or substantially completed no later than thirty-six (36) months after a certificate of occupancy is awarded for any phase of the Apartment Housing Complex (the "*Development Completion Deadline*"), (i) the Developer shall have the option to repurchase the Restaurant Parcel, which option may be exercised by Developer, in Developer's sole discretion, at any time within eighteen (18) months after the Development Completion Deadline (the "*Option Period*"), at a price equal to One and 00/100 dollars ($1.00)(the "*Repurchase Option*"), or (ii) if the Developer does not exercise the Repurchase Option, then for a period of five (5) years after the Option Period expires, the Developer shall have a right of first refusal to purchase the Restaurant Parcel if the City receives a bona fide offer to buy the Restaurant Parcel on terms equal to that which the City is willing to accept (the "*Right of First Refusal*"). The City shall notify the Developer in writing of any offer subject to the Right of First Refusal, and Developer shall have at least sixty (60) days to decide whether it will exercise the Right of First Refusal for that offer. Upon Developer's transfer of the Restaurant Parcel to the City as set forth in this Section, Developer shall have no further obligations with respect to the Restaurant Parcel under this Agreement.

Section 4.6 Permits. Prior to commencing construction of the Apartment Housing Complex of the Multifamily Project, the Developer shall obtain all necessary permits from all levels of government having jurisdiction thereover to allow the Developer to build and develop the Apartment Housing Complex of the Multifamily Project consistent with the detailed development plan(s) for the Multifamily Project. Standards for permit approval shall comply with all applicable standards (as may be set forth in City Codified Ordinances or elsewhere) at the time of zoning permit application or, in the case of the City administrative plan review requirements, at the time of application for those predevelopment permits.

Section 4.7 Fees, Charges and Taxes. The Developer shall, as and when customarily payable to the City on projects comparable to the Apartment Housing Complex of the Multifamily Project, pay the then-current standard fees in connection with any construction of the Apartment Housing Complex of the Multifamily Project, which fees shall include, but not be limited to, fees for the provision of water, sanitary sewer and storm sewer services, and which fees, the City agrees, will be determined in a manner consistent and uniform with the manner of fee determination by the City on projects comparable to the Multifamily Project. The Developer acknowledges and agrees that the City reserves the right to adjust the standard fees described in this Section 4.7 from time to time in a manner consistent and uniform with the manner of fee determination by the City on projects comparable to the Apartment Housing Complex of the Multifamily Project. The Developer shall also ensure that any other standard fees, sales and use taxes, if any, and license and inspection fees necessary for the completion of the Apartment Housing Complex of the Multifamily Project shall be timely paid.

Section 4.8 Provision of City Services. The City agrees to provide to the Multifamily Project all City services usually and customarily provided by the City, including but not limited

to, fire and police protection and road maintenance on dedicated and accepted public streets consistent with its City-wide street maintenance program; provided *however*, the City shall not be required to construct and install improvements related to the provision of those services except as may be required as part of a general duty to provide a basic obligation of public service or otherwise provided herein.

Section 4.9 Insurance and Bonds. Insurance and bonds shall be provided by the Developer or its contractors and subcontractors during the course of development of the Apartment Housing Complex of the Multifamily Project only if, and as otherwise required by, the City Codified Ordinances and other applicable development regulations.

Section 4.10 Compliance with Laws. In connection with the construction of the Multifamily Project and in performing its obligations under this Agreement, the Developer agrees that it shall comply with, and require all of its employees, agents, contractors and consultants to comply with, all applicable federal, state, county, or municipal laws (including City Codified Ordinances) in all material respects; provided, however, that nothing in this Section shall prohibit Developer from contesting in good faith the application of any such laws in an appropriate forum.

Section 4.11 Expeditious Completion of the Multifamily Project. The Parties agree that the expeditious completion of the Multifamily Project will benefit both Parties. To that end, the Parties agree to act in good faith and in a cooperative manner to complete the Multifamily Project in accordance with the terms of this Agreement. The City also agrees to act in good faith and diligently review the various applications and other matters which must be approved by the City as compliant with applicable laws and regulations in connection with the Multifamily Project; *provided, however*, the Developer acknowledges and agrees that the various approvals of the City relating to planning and zoning described in this Article IV shall not be effective until approved

by the appropriate body as contemplated hereby. The Parties each agree that the City shall have no responsibility relative to the marketing or sale of the real property or improvements thereto within the Multifamily Project.

Section 4.12 Waiver of Unpaid Special Assessments. In consideration for the Developer's agreement to construct the Multifamily Project and thereby create employment opportunities within the City as well as create various types of housing for its residents, the City agrees to waive, and not charge the Developer, for any unpaid assessments due to the City as of the Effective Date for the Property, or any parcel thereon, including, but not limited to, the unpaid assessments identified on **EXHIBIT E** (collectively, the "*Waived Assessments*"). The City represents that (a) **EXHIBIT E** is a certified summary, prepared by the City, of the Waived Assessments, and (b) except as set forth on **EXHIBIT E**, the City is not aware of any other unpaid assessments due to the City with respect to the Property, or any parcel thereon, including any accrued, deferred, or future known assessments on such property. The Parties agree that the City shall not levy any assessments on the Property which are not levied on all of the surrounding property in a fair and equitable manner, except those assessments, if any, requested by Petition from an Owner of the Property.

(END OF ARTICLE IV)

ARTICLE V

COMMUNITY REINVESTMENT AREA

Section 5.1 General. The Parties acknowledge that the provision of real property tax exemptions in respect of the Multifamily Project Site will be important to facilitate the construction of the Multifamily Project.

Section 5.2 Community Reinvestment Area #7. The Parties agree that:

(a) In accordance with the CRA Legislation, the City has provided for a CRA Exemption applicable to the Multifamily Project Site, which as set forth in the CRA Legislation, includes a fifteen (15) year, 100% real property tax exemption for the construction of every commercial or industrial structure (which, for the avoidance of doubt, includes each structure that comprises a portion of the Apartment Housing Complex) as described in division (C) of Section 3735.67 of the Ohio Revised Code for properties located within CRA #7.

(b) To facilitate the construction of the Multifamily Project, to create employment opportunities within the City as well as the creation of various types of housing for its residents, and in consideration for the Developer's covenants set forth herein, the City hereby confirms that it has, through the CRA Legislation, provided for the aforementioned CRA Exemption, and that such CRA Exemption is available to Developer for the Multifamily Project Site under the terms of the CRA Legislation, the CRA Statute and this Agreement.

(c) The Developer agrees related to the Multifamily Project Site to file with the City one or more CRA real property tax exemption applications. The Parties agree that the CRA Exemption shall commence for each structure that comprises a portion of the Apartment Housing Complex with the tax year identified by the Developer for that structure in the CRA real property tax exemption application, provided that the CRA Exemption for each structure shall commence

no later than the first tax year after that structure is completed. The Developer shall file a CRA real property tax exemption application for the structure that contains the final living unit within the Apartment Housing Complex no later than within ninety (90) days following the issuance (which issuance will not be unreasonably conditioned, withheld or delayed) by the City of a certificate occupancy therefor and shall include with that application (i) confirmation that construction of the final unit in the Apartment Housing Complex has been completed, and (ii) confirmation of the number of units included in the Apartment Housing Complex. The Parties acknowledge that the Developer may develop the Apartment Housing Complex in one or more phases, as determined by the Developer in its sole and complete discretion, and that the Developer may submit a CRA real property tax exemption application to the City for any structure included within a phase or portion of the development of the Apartment Housing Complex.

The City agrees that promptly following confirmation of each application filed in accordance with this Section 5.2(c), the City will approve a fifteen (15) year, 100% real property tax exemption in respect of each structure that comprises a portion of the Apartment Housing Complex, all in accordance with the CRA Legislation.

Section 5.3 Compliance and Remedies Related to the CRA Exemption.

(a) The City agrees that for so long as an Owner is the recipient of a real property tax exemption in accordance with Section 5.2(c) (each a "*Real Property Tax Exemption Recipient*") and that Real Property Tax Exemption Recipient is complying with the terms of Section 5.2(c), and then notwithstanding the occurrence of a Developer Default or any other default hereunder by actions or inactions of the Developer (provided that such default is not caused by the action or inaction of that Real Property Tax Exemption Recipient), the City shall not take action to reduce

the exemption percentage and/or the term of the real property tax exemption as such would apply to the Real Property Tax Exemption Recipient.

(b) The Developer further agrees that if the City determines in good faith that an Owner fails to make any required Minimum Service Payment, the City may thereafter take action against the Owner, which shall be proportionate to the default to reduce the applicable exemption percentage and/or the term of the real property tax exemption and/or the City may increase the Minimum Service Payments applicable to the Owner under Section 6.3 to a higher amount but in no event higher than the amount that Owner would have paid in real estate taxes but for the CRA exemption.

Section 5.4 Priority of Tax Exemptions. The City agrees that the TIF Exemption shall be subordinate to the CRA Exemption. The Housing Officer shall designate in the Housing Officer's approval of a CRA real property tax exemption application that the CRA Exemption shall have priority with respect to the Multifamily Project Site over the TIF Exemption.

(END OF ARTICLE V)

ARTICLE VI

TAX INCREMENT FINANCING

Section 6.1 General. The Parties acknowledge that City Council heretofore passed the TIF Ordinance which provides for, among other terms, the application of the TIF Exemption to the Multifamily Project Site and identification of certain public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, the Multifamily Project Site.

Section 6.2 Statutory Service Payments. The Developer, on behalf of itself and each Owner, agrees to make TIF Payments attributable to its respective period of ownership of the Multifamily Project Site, all pursuant to and in accordance with the requirements of the TIF Statutes, and any subsequent amendments or supplements thereto, the TIF Ordinance and this Agreement, and as further set forth in the Declaration.

Section 6.3 Minimum Service Payment Obligation.

(a) General. The Developer, on behalf of itself and each Owner, acknowledges and agrees that the Multifamily Project Site is also subject to a minimum service payment obligation (the "*Minimum Service Payment Obligation*"), which constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91 (the Restaurant Parcel is not subject to the Minimum Service Payment Obligation or any other type of minimum service payment obligation). The Minimum Service Payment Obligation shall begin in the MSP First Payment Year and continue through and including the MSP Last Payment Year. Notwithstanding any other provision of this Agreement, the Minimum Service Payment Obligation shall cease after the MSP Last Payment Year.

(b) Invoices and Timing. The City shall send invoices to collect the Minimum Service Payments as follows:

(i) No later than _____ in each year in which the Minimum Service Payment is due, the City shall send an invoice to each Owner (at the registered address for purpose of receiving real property tax statements) stating the amount due which shall equal 50% of the applicable Minimum Service Payment for that year, and state that payment is due the later of: (i) thirty (30) days after the date the invoice is delivered to the Owner or (ii) February 15 of the year for which the Minimum Service Payment is being collected (the "*First Annual MSP Invoice Deadline*"), and

(ii) No later than _____ in each year in which the Minimum Service Payment is due, the City shall send an invoice to each Owner (at the registered address for purpose of receiving real property tax statements) stating the amount due which shall equal 50% of the applicable Minimum Service Payment for that year, and state that payment is due the later of: (i) thirty (30) days after the date the invoice is delivered to the Owner or (ii) July 15 of the year for which the Minimum Service Payment is being collected (the "*Second Annual MSP Invoice Deadline*" and collectively with the First Annual MSP Invoice Deadline, the "*MSP Invoice Deadline*").

(c) Annual Minimum Service Payment Obligations. The aggregate annual amount of the Minimum Service Payments for the Multifamily Project Site shall equal:

Year	Annual Amount
MSP Payment Year 1	$10,000.00
MSP Payment Years 2-5	$60,000.00
MSP Payment Years 6-10	$70,000.00
MSP Payment Years 11-15	$150,000.00

(d) Apportionment of Minimum Service Payment Obligation Among Multiple Owners. In the event the Multifamily Project Site is owned by more than one Owner, the City shall collect the Minimum Service Payments on a pro rata basis among such Owners based on the then-assessed value of each such Owner's property in proportion to the assessed value of all such Owners' property.

(e) Delinquencies, Administrative Fees and Interest. If a Minimum Service Payment is not received by the City within thirty (30) days after the applicable MSP Invoice Deadline, the City may assess a non-paying Owner with a 10% administrative fee together with interest accruing at an annual rate of 10% on the portion of any Minimum Service Payment that remains unpaid from that Owner. The City may certify delinquent Minimum Service Payments, fees and interest to the County Auditor for collection on real property tax bills. Any late payments of amounts so certified will bear penalties and interest at the then current rate established under Ohio Revised Code Sections 323.121 and 5703.47 or any successor provisions thereto, as the same may be amended from time to time. In no event shall the Minimum Service Payment Obligation for the Multifamily Project Site equal less than zero dollars. The Developer, on behalf of itself and the Owners, acknowledges that the provisions of Ohio Revised Code Section 5709.91, which specify that the TIF Payments and the Minimum Service Payments will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11 including, but not limited to, the priority of the lien and the collection of TIF Payments and Minimum Service Payments applies to the Multifamily Project Site and any improvements thereon.

(f) Failure to Send Invoice. Failure by the City to send an invoice to an Owner for a Minimum Service Payment in accordance with this Section shall not invalidate Developer's/Owner's obligation to make such payment(s). However, such failure shall invalidate

City's right to assess fees and interest as outlined in this Section for Developer's/Owner's failure to remit or timely remit Minimum Service Payments as required herein. The MSP Payment obligation contained herein shall not be subject to the Force Majeure provision of section 6.5, unless the Force Majeure specifically affects either (i) the means by which the MSP Payment is transmitted, or (ii) the ability of the Owner to receive the invoice for the Minimum Service Payment.

(g) Foreclosure and Acceleration. In the event that any portion of the Multifamily Project Site is subject to an action that would impair or foreclose the lien created by the Declaration (such as a property tax foreclosure action), and provided that the Multifamily Project Site is still subject to the Minimum Service Payment Obligation at the time that such foreclosure becomes effective, the City may declare immediately due and payable all Minimum Service Payments projected to be due from that portion in the then-current year or any future year (through and including the Minimum Service Payment Last Payment Year). Except as set forth in this Section 6.3, no other Minimum Service Payment shall be owed for the Multifamily Project Site, or any portion thereof.

Section 6.4 Information Reporting. The Developer covenants to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually during the term of this Agreement the Developer's compliance with the terms of this Agreement. Any information supplied to such tax incentive review council will be provided solely for the purpose of monitoring the Developer's compliance with this Agreement.

The Developer further covenants to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report

required by Ohio Revised Code Section 5709.40(I) to the Director of the Ohio Department of Development on or before March 31 of each year the exemption for the Multifamily Project Site provided by the TIF Ordinance is in effect. Any information supplied to the City will be provided solely for the purpose of enabling the City to comply with this requirement.

Section 6.5 Non Discriminatory Hiring Policy. With respect to operations within the City, the Developer will comply with the City's policies adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions (under the TIF Ordinance and the CRA Legislation) practice nondiscriminatory hiring in its operations. In furtherance of that policy, the Developer will agree that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

(END OF ARTICLE VI)

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.1 Developer Default. Any one or more of the following shall constitute a Developer Default under this Agreement:

(a) Default by the Developer in the due and punctual performance or observance of any material obligation under this Agreement and such default is not cured within thirty (30) days after written notice from the City, *provided* that if the default is of a non-monetary nature and cannot reasonably be cured within thirty days, a Developer Default shall not be deemed to occur so long as the Developer commences to cure the default within the thirty-day period and diligently pursues the cure for completion within a reasonable time;

(b) Any representation or warranty made by the Developer in this Agreement is false or misleading in any material respect as of the time made;

(c) The filing by the Developer of a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

(d) The making by the Developer of a general assignment for the benefit of creditors;

(e) The filing of a voluntary petition in bankruptcy or the entry of an order for relief pursuant to the federal bankruptcy laws, as the same may be amended from time to time, with the Developer as debtor; or

(f) The filing by the Developer of an insolvency proceeding with respect to such party or any proceeding with respect to such party for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

Section 7.2 City Default. Any one or more of the following shall constitute a City Default under this Agreement:

(a) Default by the City in the due and punctual performance or observance of any material obligation under this Agreement and such default is not cured within thirty (30) days after written notice from the Developer, *provided* that if the default is of a non-monetary nature and cannot reasonably be cured within thirty days, a City Default shall not be deemed to occur so long as the City commences to cure the default within the thirty day period and diligently pursues the cure for completion within a reasonable time;

(b) Any representation or warranty made by the City in this Agreement is false or misleading in any material respect as of the time made;

(c) The filing of a voluntary petition in bankruptcy or the entry of an order for relief pursuant to the federal bankruptcy laws, as the same may be amended from time to time, with the City as debtor; or

(d) Any repeal of the CRA Legislation or the TIF Ordinance or reduction or elimination of the real property tax exemptions granted thereunder except as otherwise provided herein.

Section 7.3 Remedies.

(a) In the event that the Developer shall create or suffer a Developer Default under this Agreement which remains uncured as aforesaid, or in the event that the City shall create or suffer a City Default under this Agreement which remains uncured as aforesaid, or in the event of any dispute arising out of or relating to this Agreement which does not necessarily rise to the level of a default hereunder, then absent facts or circumstances which compel a Party's pursuit of immediate injunctive or other equitable relief, the Parties agree to and shall first proceed as follows prior to pursuit of any other remedies hereunder, in equity or at law:

(i) the complaining Party shall notify the other Party in writing of the dispute and/or claimed default, and thereafter the Parties shall undertake good faith discussions for the purpose of resolving the dispute and/or the issues giving rise to the claimed default.

(ii) If the dispute and/or the issues giving rise to the claimed default are not resolved by such good faith discussions within thirty (30) days after such notice is provided under foregoing clause (i), then, upon the request of either Party by written notice to the other Party, mediation shall be initiated through the use of a mutually-acceptable neutral mediator not affiliated with either of the Parties, and thereafter the Parties shall proceed in good faith with such mediation for the purpose of resolving the dispute and/or the issues giving rise to the claimed default. If the Parties are unable to agree upon a neutral mediator, then either Party may solicit the Administrative Judge of the Common Pleas Court of Montgomery County, Ohio to appoint the mediator. If the dispute and/or the issues giving rise to the claimed default are not resolved within thirty (30) days after the identification or appointment of the mediator, then the Parties may pursue their other remedies hereunder, in equity or at law. Each Party shall pay its own costs and one-half (1/2) of the mediator's fees and expenses in connection with any such mediation. The Developer acknowledges that before the Parties may proceed with mediation in accordance with this Section 8.3(a), City Council must first authorize and appropriate sufficient monies to pay the City's portion of the cost; provided, however, if the City fails to authorize and appropriate sufficient monies to pay the City's portion of the cost for mediation within sixty (60) days after the appointment of a mediator, the Developer may immediately, and without first being required to proceed to mediation under this Section, pursue its other remedies hereunder in equity or at law.

(b) In the event that the Developer shall create or suffer a Developer Default under this Agreement and the Parties are unable to resolve all issues arising out of such a Developer Default in accordance with the discussion and mediation provisions set forth in Section 7.3(a) above, then, in addition to any other rights or remedies available to the City hereunder, in equity or at law, the City, at its option, shall have the right to cancel and terminate this Agreement by written notice to the Developer.

(c) In the event that the City shall create or suffer a City Default under this Agreement and the Parties are unable to resolve all issues arising out of such a City Default in accordance with the discussion and mediation provisions set forth in Section 7.3(a) above, then, in addition to any other rights or remedies available to the Developer hereunder, in equity or at law, the Developer, at its option, shall have the right to cancel and terminate this Agreement by written notice to the City.

Section 7.4 Other Rights and Remedies; No Waiver by Delay. The Parties each have the further right to institute any actions or proceedings (including, without limitation, actions for specific performance, injunction or other equitable relief) as it may deem desirable for effectuating the purposes of, and its remedies under, this Agreement; *provided*, that any delay by any Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement will not operate as a waiver of those rights or to deprive it of or limit those rights in any way; nor will any waiver in fact made by either Party with respect to any specific default or breach by any other Party under this Agreement be considered or treated as a waiver of the rights of that Party with respect to any other defaults by the other Party or with respect to the particular default or breach except to the extent specifically waived in writing. It is the further intent of this provision that no Party should be constrained, so as to avoid the risk of being deprived of or limited

in the exercise of any remedy provided in this Agreement because of concepts of waiver, laches, or otherwise, to exercise any remedy at a time when it may still hope otherwise to resolve the problems created by the default involved.

Section 7.5 Force Majeure. Except as otherwise provided herein, no Party will be considered in default in or breach of its obligations to be performed hereunder if delay in the performance of those obligations is due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to, acts of God, acts of terrorism or of the public enemy, acts or delays of the other party, fires, floods, unusually severe weather, epidemics, freight embargoes, unavailability of materials, strikes or delays of contractors, subcontractors or materialmen but not including lack of financing capacity; it being the purpose and intent of this paragraph that in the event of the occurrence of any such enforced delay, the time or times for performance of obligations shall be extended for the period of the enforced delay; *provided, however*, that the Party seeking the benefit of the provisions of this Section must, within a reasonable period following commencement of the enforced delay, notify the other Party in writing of the delay and of the cause of the delay and of the duration of the delay or, if a continuing delay and cause, the estimated duration of the delay, and if the delay is continuing on the date of notification, within thirty (30) days after the end of the delay, notify the other Parties in writing of the duration of the delay. Delays or failures to perform due to lack of funds shall not be deemed unforeseeable delays.

(END OF ARTICLE VII)

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Assignment. This Agreement may not be assigned without the prior written consent of the non-assigning Party; *provided, however*, that the Developer may without the consent of the City assign its rights and responsibilities under this Agreement to any affiliate of Developer; *provided, further*, any assignment shall not have an effective date earlier than the date title to the parcel upon which such Multifamily Project is to be constructed is/are transferred to the affiliate as evidenced by the recordation of the deed(s) to said parcel(s).

For purposes of this Agreement, an "*affiliate*" of the Developer shall mean any entity controlled by or under common control with the Developer and, "*controlled by*" or "*under common control with*" will refer to the possession, directly or indirectly, of the legal power to direct or cause the direction of the management and policies of an entity, whether through the exercise of, or the ability to exercise, voting power or by contract.

Once the Multifamily Project has been completed, the Developer may assign this Agreement to an unrelated third party, which has the financial resources and expertise to own and operate the Multifamily Project, with the prior written consent of the City, which consent will not be unreasonably conditioned, delayed or withheld.

Section 8.2 Binding Effect. The provisions of this Agreement are binding upon the successors or permitted assigns of the Parties, including successive successors and assigns. The Parties acknowledge that all matters subject to the approval of City Council will be approved or disapproved in City Council's sole discretion. All rights, remedies, and interests held, created in, or received by Developer in this Agreement or in any agreement attached to or entered into pursuant to this Agreement, shall, unless the same are specifically and expressly reserved by this

Agreement to Developer, be rights, remedies, and interests automatically transferred by Developer to an affiliate of Developer with, and at such time as, the deed to any parcel upon which Multifamily Project is to be constructed is executed and delivered by Developer; *provided, however*, that the automatic transfer of such rights, remedies, and interests described in this sentence are herein limited to the rights, remedies, and interests as they relate to and affect the Multifamily Project owned by the Developer.

Section 8.3 Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope of the intent of any article, section, subsection, clause, exhibit or appendix of this Agreement.

Section 8.4 Day for Performance. Wherever herein there is a day or time period established for performance and the day or the expiration of the time period is a Saturday, Sunday or legal holiday, then the time for performance will be automatically extended to the next business day.

Section 8.5 Developer Mortgagee Rights. The City hereby acknowledges that, from time to time during the development of the Multifamily Project, the Developer may obtain financing in connection with the Multifamily Project which will be secured in whole or in part by assignments, pledges or mortgages of the Developer's interests in the Property (each a "*Developer Mortgage*"). In connection therewith, the City agrees to and shall cooperate with the Developer to provide to the holder of any such Developer Mortgage (each a "*Developer Mortgagee*") such reasonable factual representations and/or consents regarding this Agreement and/or the Developer's rights hereunder as such Developer Mortgagee may request from time to time. By way of example, such reasonable factual representations and/or consents may take the form of: (a) estoppel certificates certifying that this Agreement is unmodified and in full force and effect (or if

there have been modifications that it is in full force and effect as modified and stating the modifications), that neither the City nor the Developer is in default in the performance of any obligations under this Agreement (or specifying any such default of which the City has knowledge), and certifying as to other facts as reasonably requested by such Developer Mortgagee; and/or (b) consents to the collateral assignment of certain of the Developer's rights under or in respect of this Agreement. Any such requested assurance and/or consent shall be in a form reasonably approved by the City, and the City shall endeavor reasonably to respond to any such request in a prompt and timely manner. The Developer shall pay on behalf of the City any reasonable fees and expenses incurred by the City in connection with any request pursuant to this Section.

Section 8.6 Document Submissions to the City. Except as otherwise required by the City Codified Ordinances, any documents required to be submitted to the City pursuant to this Agreement shall be submitted to the City Manager or such other City department as may be directed by the City Manager.

Section 8.7 Entire Agreement. This Agreement, including the exhibits and the corollary agreements contemplated hereby, embodies the entire agreement and understanding of the Parties relating to the subject matter herein and therein and may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

Section 8.8 Executed Counterparts. This Agreement may be executed in several counterparts, each of which will be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It is not necessary in proving this Agreement to produce or account for more than one of those counterparts. The Parties may deliver executed versions of this Agreement and any amendments or addendums hereto by electronic means (e.g., PDF or similar format delivered by electronic mail), and such electronic versions shall be deemed

to be original versions of this Agreement. The Parties agree that this Agreement may be electronically signed by one or more Parties. Any electronic signature used by a Party to sign this Agreement shall be treated the same as handwritten signatures for the purposes of validity, enforceability and admissibility. Without limiting the foregoing, nothing in this Agreement shall be construed to require a Party to sign this Agreement by electronic signature.

Section 8.9 Extent of Covenants; Conflict of Interest; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement are effective to the extent authorized and permitted by applicable law. No member, official or employee of the City shall have a personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement that affects his personal interest or the interests of any corporation, partnership, association or other entity in which he is, directly or indirectly, interested. No covenant, obligation or agreement may be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent, director, member or employee of the City or the Developer, or its successors or permitted assigns, other than in his or her official capacity, and neither the members of the legislative body of the City nor any official executing this Agreement nor any present or future member, officer, agent, director or employee of the Developer, or its successors or permitted assigns, are liable personally under this Agreement or subject to any personal liability or accountability by reason of the execution hereof or by reason of the covenants, obligations or agreements of the City and the Developer contained in this Agreement.

Section 8.10 Governing Law. This Agreement is governed by and is to be construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees and the Developer, its employees

and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Montgomery County, Ohio or any appellate court therefrom.

Section 8.11 Limits on Liability. Notwithstanding any clause or provision of this Agreement to the contrary, in no event will the City or the Developer, or its successors or permitted assigns, be liable to each other for punitive, special, consequential or indirect damages of any type and regardless of whether those damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law unless otherwise expressly agreed by the Party against which the damages could be assessed.

Section 8.12 No Third-Party Beneficiary. Except relative to a permitted assignee pursuant to an assignment effected pursuant to Section 7.1, nothing expressed or mentioned in or to be implied from this Agreement is intended or shall be construed to give to any person other than the Parties, any legal or equitable right, remedy, power or claim under or with respect to this Agreement or any covenants, agreements, conditions and provisions contained herein. This Agreement and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the Parties hereto, as provided herein. With the exception of the Parties and any assignee effected pursuant to Section 7.1, it is not intended that any other person or entity shall have standing to enforce, or the right to seek enforcement by suit or otherwise of any provision of this Agreement whatsoever.

Section 8.13 Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder must be in writing and will be deemed sufficiently given if actually received by email, or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the recipient at the Notice Address, or to another

address of which the recipient has previously notified the sender in writing, and the notice will be deemed received upon actual receipt, unless sent by certified mail, in which case the notice will be deemed to have been received when the return receipt is received, signed or refused.

Section 8.14 Recitals and Exhibits. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto and the information contained in the Exhibits hereto are an integral part of this Agreement and as such are incorporated herein by reference.

Section 8.15 Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination will not affect any other provision, covenant, obligation or agreement contained herein, each of which will be construed and enforced as if the invalid or unenforceable portion were not contained herein. If any provision, covenant, obligation or agreement contained herein is subject to more than one interpretation, a valid and enforceable interpretation is to be used to make this Agreement effective. An invalidity or unenforceability of any provision of this Agreement will not affect any valid and enforceable application, and each provision, covenant, obligation or agreement will be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 8.16 Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

(END OF ARTICLE VII – SIGNATURE PAGES TO FOLLOW)

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives, all as of the date first written above.

CITY OF HUBER HEIGHTS, OHIO

By: _____

Printed: Bryan Chodkowski

Title: Interim City Manager

Approved as to Form and Correctness:

By: _____

Printed: David Montgomery

Title: City Attorney

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

On this _____ day of _____, 2023, before me a Notary Public personally appeared Bryan Chodkowski, the authorized representative of the City of Huber Heights, Ohio, and acknowledged the execution of the foregoing instrument, and that the same is his 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.

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 Developer has caused this Agreement to be executed by its duly authorized representatives, all as of the date first written above.

METRO ROSE, LLC, an Ohio limited liability company

By: _____

Printed: Matthew R. Vekasy

Title: Manager

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

On this _____ day of _____, 2023, before me a Notary Public personally appeared Matthew R. Vekasy, the Manager of Metro Rose, 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 Metro Rose, LLC.

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

_____
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 2023 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: _____, 2023

_____

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

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Newbauer Property Legal Description (25.3 Acres), to be consolidated:

PARCEL I: (P70 01820 0003)

Located in the city of Huber Heights and in Section 24, Town 2, Range 8 M.RS., County of Montgomery, state of Ohio and being all of lot 3 of the plat of Newbauer Park Section One as recorded in plat book 196, page 38-38a in the plat records of Montgomery County, Ohio. 0.9093 acres.

PARCEL II: (P70 01820 0004)

Located in the city of Huber Heights and in Section 24, Town 2, Range 8 M.RS., County of Montgomery, state of Ohio and being all of lot 4 of the plat of Newbauer Park Section One as recorded in plat book 196, page 38-38a in the plat records of Montgomery County, Ohio. 24.3907 acres.

EXHIBIT B
DEPICTION OF MULTIFAMILY PROJECT

EXHIBIT C
FORM OF DEVELOPER DECLARATION OF COVENANTS
TAX INCREMENT FINANCING DECLARATION OF COVENANTS

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS (this "*Declaration*") is made by METRO ROSE, LLC, an Ohio limited liability company having its address at 1429 King Avenue, Columbus, Ohio 43212 (the "*Declarant*").

W I T N E S S E T H:

WHEREAS, the Declarant has acquired certain parcels of real property located in the City of Huber Heights, Ohio (the "*City*"), a description of which real property is attached hereto as **ATTACHMENTS A-1 AND A-2** (with each parcel as now or hereafter configured, a "*Parcel*", and collectively, the "*Parcels*"), having acquired such fee simple title by instrument No. _____ recorded in the Official Records of the Office of the Recorder of Montgomery County, Ohio (the "*County Recorder*"), as O.R. _____, Page _____; and

WHEREAS, the Declarant contemplates making private improvements to the referenced Parcels; and

WHEREAS, the City, by its Ordinance No. 2003-O-1409, as amended by Ordinance No. 2020-O-2456 (collectively, the "*TIF Ordinance*"), has declared that one hundred percent (100%) of the increase in the assessed value of each Parcel subsequent to the effective date of the TIF Ordinance (such increase hereinafter referred to as the "*Improvement*" as further defined in Ohio Revised Code Sections 5709.40, but which term, as specified in the TIF Ordinance, shall not include the increase in assessed value of any CRA Exempted Improvement (as defined therein) located upon such Parcel for so long and to the extent that such CRA Exempted Improvement is exempt from real property taxation pursuant to the CRA Statute (as defined therein) and the Agreement (defined below) is a public purpose and is exempt from taxation (such exemption referred to herein as the "*TIF Exemption*") for a period as set forth in the TIF Ordinance, commencing on the effective date and ending on the earlier of (a) sixty (60) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Ohio Revised Code Sections 5709.40, 5709.42, 5709.43 and 5709.51 (collectively, the "*TIF Statute*") and the TIF Ordinance; and

WHEREAS, it is necessary to acknowledge the construction of certain public infrastructure improvements (the "*Existing Public Infrastructure Improvements*") which have heretofore been designated by the City as benefiting the Parcels and which Declarant agrees will directly benefit the Parcels; and

WHEREAS, the TIF Ordinance provides that the owner of the Parcels makes service payments in lieu of taxes with respect to any Improvement on that Parcels (the "*TIF Payments*") which TIF Payments will be used to pay costs of the Public Infrastructure Improvements, all pursuant to and in accordance with the TIF Statute and the TIF Ordinance; and

WHEREAS, the Declarant and the City entered into a Development Agreement dated as of _____, 2023 (the "*Agreement*"), a copy of which may be obtained from the office of the City Manager of the City at 6131 Taylorsville Road, Huber Heights, Ohio 45424; and

WHEREAS, the Agreement creates an obligation on the owners of certain Parcels containing the Multifamily Project (the "*Multifamily Project Site*", as defined in the Agreement) to make certain minimum service payments with respect to those Parcels (the "*Minimum Service Payments*"); and

WHEREAS, this Declaration is being made and filed of record with respect to the Parcels comprising the Multifamily Project Site pursuant to Section 2.3 of that Agreement.

NOW, THEREFORE, the Declarant, for itself and its successors and assigns to or of each Parcel (collectively, the "*Owners*" and individually, each an "*Owner*"), hereby declares that the forgoing recitals are incorporated into this Declaration by this reference and that the Parcels and any improvements thereon will be held, developed, encumbered, leased, occupied, improved, built upon, used and conveyed subject to the terms and provisions of this Declaration:

Section 1. Defined Terms. Any terms which are used but not defined herein shall have the meaning as set forth in the Agreement.

Section 2. Provision of Real Property Tax Exemptions Pursuant to CRA Legislation. The Owners agree that the City shall not be required to provide any real property tax exemption with respect to the Parcels under the CRA Legislation until the conditions set forth in Article V of the Agreement are satisfied and for as long as the conditions set forth in Article V of the Agreement are satisfied. The TIF Exemption and the obligation to make TIF Payments are subject and subordinate to any real property tax exemptions granted pursuant to the CRA Legislation.

Section 3. TIF Payments. Each Owner will make the TIF Payments attributable to its period of ownership of any Parcel, all pursuant to and in accordance with the requirements of the TIF Statute, the TIF Ordinance and any subsequent amendments or supplements thereto. TIF Payments will be made semiannually to the County Treasurer of Montgomery County, Ohio (or to such Treasurer's designated agent for collection of the TIF Payments) on or before the due dates for payment of real property taxes for each Parcel, until expiration of the TIF Exemption. Any late payments will bear penalties and interest at the then current rate established under Sections 323.121 and 5703.47 of the Ohio Revised Code or any successor provisions thereto, as the same may be amended from time to time. TIF Payments will be made in accordance with the requirements of the TIF Statute and the TIF Ordinance and, for each Parcel, will be in the same amount as the real property taxes that would have been charged and payable against the Improvement to that Parcel (after credit for any other payments received by the City under Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, or any successor provisions thereto, as the same may be amended from time to time, with such payments referred to herein as the "*Property Tax Rollback Payments*") if it were not exempt from taxation pursuant to the TIF Exemption, including any penalties and interest. (For avoidance of doubt, the Owner will not be required to make TIF Payments with respect to any increase in assessed value that is exempt from real property taxation pursuant to CRA Legislation because the TIF Exemption is subordinate to the CRA Exemption.) No Owner will, under any circumstances, be required for any tax year to pay both real property taxes and TIF Payments with respect to any portion of the Improvement, whether pursuant to Section 5709.42 of the Ohio Revised Code or the Agreement; *provided, however*, this shall not preclude payment of any sum otherwise required to be paid under the Agreement.

The Owners acknowledge and agree that the Existing Public Infrastructure Improvements do, and will, directly benefit the Parcels.

Section 4. Minimum Service Payments. In addition to the obligation to make TIF Payments, the Owners of each Parcel located on the Multifamily Project Site (collectively, the "Multifamily Parcels", a description of which is attached hereto as **ATTACHMENT A-3**) agree to a minimum service payment obligation (the "*Minimum Service Payment Obligation*") for each Multifamily Parcel owned by such respective Owner, pursuant to and in accordance with the Agreement. The Owners of the Multifamily Parcels agree that the Minimum Service Payment Obligation is intended to constitute a minimum service payment obligation under Ohio Revised Code Section 5709.91 and shall be supported by a first lien on the Multifamily Parcels pursuant to Ohio Revised Code Sections 5709.91 and 323.11. The total Minimum Service Payment Obligation due for each Multifamily Parcel for any calendar year will be equal to the amount set forth in the Agreement; *provided* that the Minimum Service Payment Obligation shall not equal less than zero dollars. The Minimum Service Payment Obligation for each Multifamily Parcel shall be effective for the term relating to each Parcel as set forth in the Agreement. The Minimum Service Payment Obligation does not apply to the Restaurant Parcel as defined in the Agreement.

Section 5. Preservation of Exemption. Notwithstanding anything to the contrary set forth in the Agreement, neither City nor any Owner, nor their respective successors, assigns or transferees, shall take any action that may endanger or compromise the status of or cause the revocation of the TIF Exemption.

Section 6. Failure to Make Payments. Should any Owner of any Parcel fail to make any payment required hereunder, such Owner shall pay, in addition to the payments it is required to pay hereunder, such amount as is required to reimburse the City for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) required by the City to enforce the provisions of the Agreement and this Declaration against that Owner.

Section 7. Provision of Information. The Owners agree to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually the compliance of each Owner with the terms of this Declaration during the term of the TIF Exemption for the Parcel.

The Owners further agree to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Ohio Revised Code Sections 5709.40(I), as applicable, to the Director of the Ohio Development Services Agency on or before March 31 of each year following any year in which the TIF Exemption for the applicable Parcel remains in effect.

Section 8. Nondiscriminatory Hiring Policy. The Owners agree to comply with the City's policies adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in its operations. In furtherance of that policy, each Owner agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 9. Covenants to Run With the Land. The Owners agree that each of their covenants contained in this Declaration are covenants running with the land and that they will, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City against each Parcel, as applicable, any improvements thereon and the owner of the Parcel, without regard to whether the City has at any time been, remains or is an owner of any land or interest therein to, or in favor of, which these covenants relate. The City has the right in the event of any breach of any covenant herein contained to exercise all of the rights and remedies as set forth in Section 7.3 of the Agreement.

The Owners further agree that all covenants herein, whether or not these covenants are included by any owner of a Parcel in any deed to that owner's successors and assigns, are binding upon each subsequent owner and are enforceable by the City, and that any future owner of that Parcel, or any successors or assigns of an Owner with respect to a Parcel, will be treated as a Declarant, with respect to that Parcel for all purposes of this Declaration.

The Owners further agree that their covenants herein will remain in effect so long as the TIF Payments can be collected pursuant to the TIF Statute and the TIF Ordinance and the Minimum Service Payments can be collected pursuant to the Agreement, and in each case, unless otherwise modified or released in writing by the City in a written instrument filed in the Official Records of the County Recorder. At any time when this Declaration is no longer in effect, the City agrees to cooperate with any reasonable request by the Owner(s) to execute (for recording by such Owner(s)) an instrument to evidence this fact.

The Declarant acknowledges that the provisions of Ohio Revised Code Section 5709.91, which specify that the TIF Payments and the Minimum Service Payments will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11 including, but not limited to, the priority of the lien and the collection of TIF Payments and Minimum Service Payments applies to the Parcels and any improvements thereon.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and effective as of _____, 2023.

METRO ROSE, LLC, an Ohio limited liability company

By: _____

Printed: Matthew R. Vekasy

Title: Manager

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

On this _____ day of _____, 2023, before me a Notary Public personally appeared Matthew R. Vekasy, the Manager of Metro Rose, 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 Metro Rose, LLC.

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

_____
Notary Public

This instrument is prepared by:
Scott J. Ziance
Vorys Sater Seymour and Pease LLP
52 East Gay Street
Columbus, OH 43215

(Exhibit C Continued)

Attachment A-1

DESCRIPTION OF PARCELS SUBJECT TO DECLARATION

(Exhibit C Continued)

Attachment A-2

DEPICTION OF PARCELS SUBJECT TO DECLARATION

Attachment A-3

DESCRIPTION OF MULTIFAMILY PARCELS
(SUBJECT TO MINIMUM SERVICE PAYMENTS)

EXHIBIT D-1
PRELIMINARY LEGAL DESCRIPTION OF RESTAURANT PARCEL

Proposed Preliminary Legal Description of Restaurant Parcel (4.04+/- Acres), subject to change:

Situated in Sections 18 and 24, Town 2, Range 8, MRS, City of Huber Heights, Montgomery County, Ohio, being part of Lots 3 and 4 of Newbauer Park as recorded in P.B. 196 Pg. 38 and as conveyed to Nancy A. Newbauer Tr. in Deed MF #96-630C08, the boundary of which being more particularly described as follows:

Beginning at the north corner of said Lot 3;

Thence along the north right of way line of Executive Boulevard the following three (3) courses:

1. S78°44'53"W a distance of 297.60 feet;
2. Along a curve to the right an arc distance of 160.40 feet, said curve having a radius of 552.67 feet, a central angle of 16°37'44" and a chord bearing S87°03'45"W a distance of 159.84 feet;
3. N84°37'23"W a distance of 391.15 feet;

Thence through the aforesaid Newbauer Park, N05°22'22"E a distance of 482.94 feet to a point in the north line of said Newbauer Park;

Thence along the lines of said Newbauer Park, the following three (3) courses:

1. S84°33'27"E a distance of 282.84 feet;
2. S05°18'08"W a distance of 374.78 feet;
3. S84°40'07"E a distance of 551.17 feet to the point of beginning.

Containing 4.047 acres, more or less and being subject to easements, restrictions and rights of way of record.

The above description is for development agreement area only and not intended for conveyances purposes.

EXHIBIT D-2
APPROXIMATE GENERAL DEPICTION OF THE RESTAURANT PARCEL

Proposed Approximate General Depiction of Restaurant Parcel (4.04+/- Acres), subject to change and jurisdictional approvals:

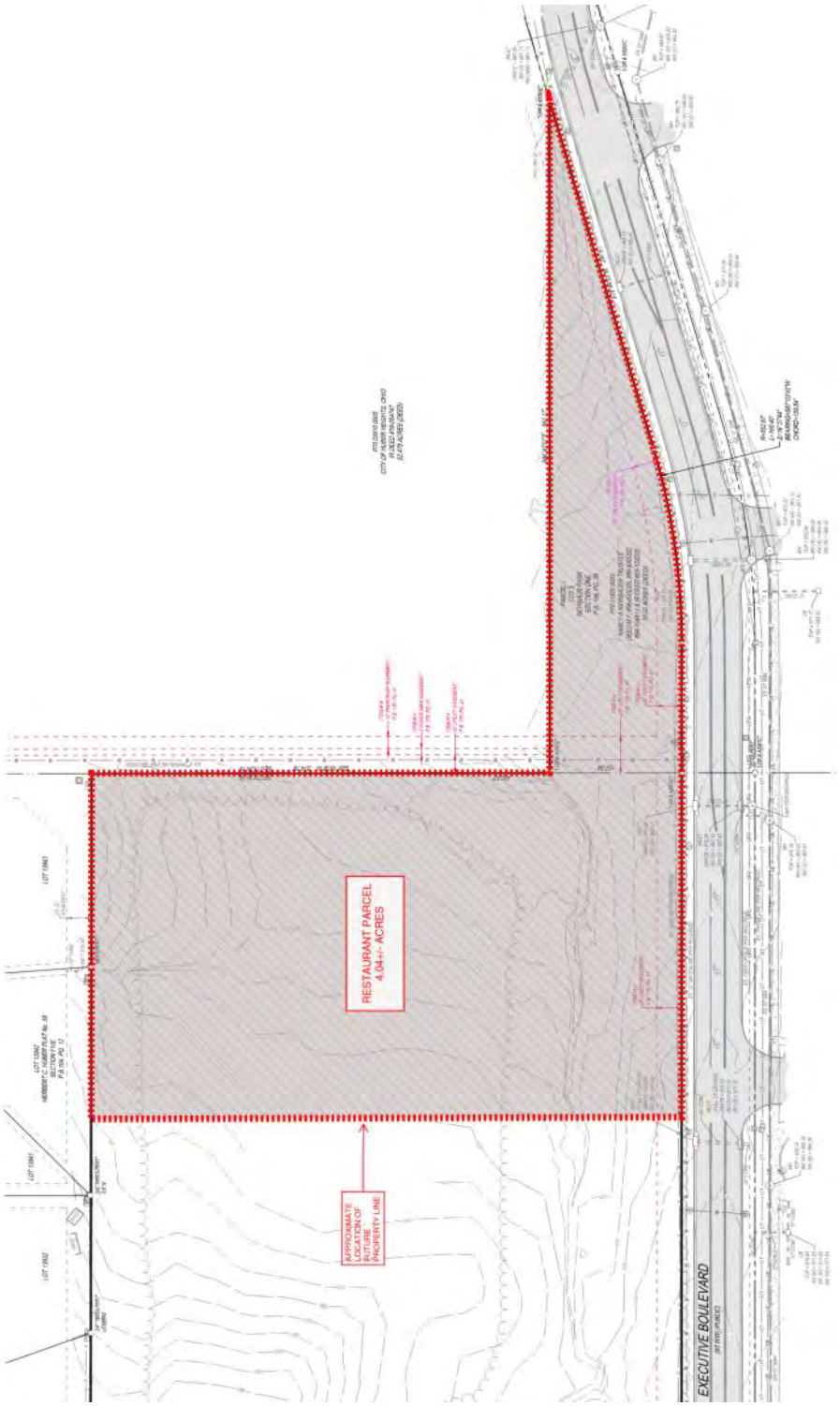

EXHIBIT E
WAIVED, UNPAID ASSESSMENTS DUE TO CITY OF HUBER HEIGHTS
PARCELS P70 01820 0004 AND P70 01820 0003

EXHIBIT F
PROHIBITED USES – RESTAURANT PARCEL

1. Any adult bookstore, strip club, or any other establishment which provides live adult entertainment, or which sells, rents, or exhibits pornographic, illicit or obscene materials.

2. Any gas or fueling station.

3. Any automobile, truck, trailer, or recreational vehicle sales, leasing, display or repair or maintenance facility.

4. Any operation primarily used as a warehouse operation and any assembling, manufacturing, refining, mineral extraction or industrial operation.

5. Any short-term retail booths or outdoor sales.

6. Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.

7. Any dumping, disposing, incineration, sorting or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage and recycling collection receptacles or compactors located near the rear of any building.

8. Any central laundry, dry cleaning plant or laundromat; provided, however, this prohibition shall not be applicable to either any accessory or secondary laundry use connected to a primary multifamily use, or storefront retail facilities for on-site service oriented to pickup and delivery by the ultimate consumer.

9. Any residential use, including but not limited to, single family dwellings, townhouses, other multi-family units, and other forms of living quarters, sleeping apartments or lodging rooms.

10. Any pet, animal or dog boarding operation to the extent it uses exterior kennels, runs and/or pens.

11. Any mortuary or funeral home.

12. Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; so-called “internet cafes”; or bingo hall. Notwithstanding the foregoing, this prohibition shall not be applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the occupant of such property, and this prohibition shall not be applicable to an establishment that has a game room or similar as an ancillary use (including, without limitation, the use of pinball machines, electronic games or similar apparatus).

13. Any sexually-oriented massage parlors or similar adult establishments; provided, however, that this restriction shall not prohibit the operation of massage therapy establishments operated by professional state-licensed therapists or medical practitioners.

14. Any business establishments engaged in the primary business of payday lending, check cashing, or providing small-dollar short- term unsecured loans, however, that this restriction shall not prohibit the operation of any Federal Deposit Insurance Corporation (FDIC)-insured bank or financial institution.

AI-10209 **Topics Of Discussion** **M.**

Council Work Session

Meeting Date: 07/16/2024

Title Sponsorship - The Big Hoopla’s Hometown Heroes Military Appreciation Night

Submitted By: John Russell

Department: City Manager

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Title Sponsorship - The Big Hoopla’s Hometown Heroes Military Appreciation Night

Purpose and Background

The City of Huber Heights is the western neighbor to Wright-Patterson Air-Force Base, which employs over 30,000 military, civilian, and contractor personnel making Wright-Patterson Air Force Base the largest single site employer in the state of Ohio with an economic impact of $4.2 billion per year. Specifically to Huber Heights, Department of Defense associated business activities make up our largest collective source of earned income tax proceeds.

The Big Hoopla, which supports the annual NCAA Men's Basketball First Four play-in games at the University of Dayton and annually generates $4.5 million of economic impact, hosts an annual concert for active-duty military personnel and veterans within the region in appreciation for their service and commitment to our country. The Big Hoopla’s Hometown Heroes Military Appreciation Night on September 5, 2024, will be held at The Rose Music Center which is owned by the City of Huber Heights.

In support for The Big Hoopla’s Hometown Heroes Military Appreciation Night, and as a show of gratitude to those who serve, and have served, in the defense of the security of our nation, it is recommended that the City provide a Title Sponsorship for The Big Hoopla’s Hometown Heroes Military Appreciation Night on September 5, 2024.

Fiscal Impact

Source of Funds: General Fund - Economic Development Budget

Cost: $25,000

Recurring Cost? (Yes/No): No

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

Financial Implications:

Attachments

Resolution

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2024-R-

PROVIDING FOR TITLE SPONSORSHIP OF THE BIG HOOPLA'S HOMETOWN HEROES MILITARY APPRECIATION NIGHT AT THE ROSE MUSIC CENTER.

WHEREAS, the City of Huber Heights (the "City") is neighbor to Wright-Patterson Air Force Base, which employs over 30,000 military, civilian, and contractor personnel making Wright-Patterson Air -Force Base the largest single site employer in the state of Ohio with an economic impact of $4.2 billion per year; and

WHEREAS, The Big Hoopla hosts an annual concert for active-duty military personnel and veterans in the region in appreciation for their service and commitment to this country; and

WHEREAS, the City owns and operates the Rose Music Center, a professional concert venue, which has been selected to host The Big Hoopla's Hometown Heroes Military Appreciation Night on September 5, 2024; and

WHEREAS, the City wishes to demonstrate its support for The Big Hoopla's Hometown Heroes Military Appreciation Night and its gratitude for those who serve, and have served, in the defense of the security of this nation.

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

Section 1. The City shall provide for a Title Sponsorship of The Big Hoopla's Hometown Heroes Military Appreciation Night on September 5, 2024 at the Rose Music Center.

Section 2. Funds necessary to provide said sponsorship shall be drawn from the General Fund Line-Item 101.305.5247 in accordance with, and in the spirit of, Section 171.02(d) and Section 171.12(b) of the City Code of Huber Heights, Ohio.

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 _____, 2024;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

AI-10213 **Topics Of Discussion** **N.**

Council Work Session

Meeting Date: 07/16/2024

Annexation Update

Submitted By: Aaron Sorrell

Department: Assistant City Manager

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 07/16/2024

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

Motion/Ordinance/ Resolution No.: N/A

Agenda Item Description or Legislation Title

Annexation Update

Purpose and Background

City Staff will provide an update to the City Council regarding various aspects of the pending Bethel Township annexation including:

- 2023 Annexation Agreement with Bethel Township
- Necessary modifications to the 2009 Amended and Restated Development Agreement with DEC Land Co., LLC
- Anticipated terms of a Pre-Annexation Agreement with Carriage Trails Co., LLC

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:	

Attachments

No file(s) attached.