

CITY OF CLAYTON, OHIO

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RESOLUTIONS AND ORDINANCES

October 5, 2017

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NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 10 – 16 – 48

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT BID AND ENTER INTO AN AGREEMENT WITH R.A. MILLER CONSTRUCTION COMPANY FOR 2018 CONCRETE WORK IN AN AMOUNT NOT TO EXCEED \$1,527,073.00

WHEREAS, the Clayton City Manager solicited bids for concrete work relative to the 2018 concrete curb, gutter and driveway approach work, said solicitation having been made in accordance with the provisions of Charter Section 8.02; and

WHEREAS, said bids have been received and reviewed by the City Manager and staff and the bid submitted by R. A. Miller Construction Company is recommended for acceptance as being the lowest and best, responsive bid submitted by a responsible bidder as to the 2018 concrete work in an amount not to exceed \$1,527,073.00.

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

1. That the City Manager is authorized to accept bid and to enter into an agreement with R. A. Miller Construction Company for 2018 concrete curb, gutter and driveway approach work in an amount not to exceed \$1,527,073.00.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R – 10 – 16 – 49

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO JOIN A COALITION OF MUNICIPALITIES RETAINING SPECIAL COUNSEL FOR PURPOSES OF INITIATING LITIGATION TO CHALLENGE THE CONSTITUTIONALITY OF AMENDMENTS TO CHAPTER 718 OF THE OHIO REVISED CODE RELATING TO MUNICIPAL INCOME TAX

WHEREAS, the City of Clayton recognizes, as a home rule power of local self-government, that municipal income tax administration and collection is vital to the health, safety and welfare of the municipality; and

WHEREAS, the City of Clayton relies on the revenue from effective municipal income tax administration and collection to provide the services that maintain the health, safety and welfare of the municipality; and

WHEREAS, the Ohio General Assembly has attempted to assert control over the administration and collection of municipal income taxes by claiming that a municipality has no authority to impose an income tax unless it adopts a code in strict compliance with R.C. Chapter 718; and

WHEREAS, the established law of Ohio is clear that any such preemption of municipal income tax codes by the State of Ohio violates the Ohio Constitution and home rule provisions that allow a municipal corporation the right to administer and enforce its own municipal income tax; and

WHEREAS, more specifically, the State of Ohio has enacted HB 5 in 2014 comprehensively rewriting the entire municipal income tax law and HB 49 in 2017 authorizing centralized collection by the State of Ohio of municipalities' net profits taxes; and

WHEREAS, the City of Clayton desires to assert its home rule authority to control the administration and collection of the municipal income tax, in order to provide for the health, safety and welfare of the municipality; and

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

Section I: The City Manager is authorized to join a coalition of municipalities being formed for the purpose of initiating litigation to challenge the constitutionality of amendments to Chapter 718 of the Ohio Revised Code contained in H.B. 5 and H.B. 49, and retain the law firm of Frost Brown Todd LLC as special counsel for the coalition of municipalities.

Section II: This Resolution shall be in full force and effect upon its passage in accordance with the terms of the City of Clayton Charter.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R – 10 – 17 – 50

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE 2017 JOHN DEERE 6120 CAB TRACTOR WITH DUEL FLAIL MOWERS FROM KOENIG EQUIPMENT, INC. AT STATE BID AND AT A COST NOT TO EXCEED \$117,500.00

WHEREAS, R.C. § 125.04 provides for the procedure whereby purchases may be made by political subdivisions without competitive bidding by participating in contracts formulated by the Ohio Department of Administrative Services; and

WHEREAS, City Staff has requested and recommended the purchase of a 2017 John Deere 6120 Cab Tractor with Duel Flail Mowers on the terms and conditions of purchase established by the Ohio Department of Administrative Services.

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

1. That the City Manager is authorized to purchase a 2017 John Deere 6120 Cab Tractor with Duel Flail Mowers on State Bid from Koenig Equipment, Inc. on the terms and conditions of purchase established by the Ohio Department of Administrative Services and at a cost not to exceed \$117,500.00.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R – 10 – 17 – 51

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE 2018 WESTERN STAR 4700 SINGLE AXLE DUMP TRUCK WITH PLOW AND SNOW EQUIPMENT FROM KINSTLE STERLING/WESTERN STAR TRUCK CENTER AT STATE BID AND AT A COST NOT TO EXCEED \$175,000.00

WHEREAS, R.C. § 125.04 provides for the procedure whereby purchases may be made by political subdivisions without competitive bidding by participating in contracts formulated by the Ohio Department of Administrative Services; and

WHEREAS, City Staff has requested and recommended the purchase of a 2018 Western Star 4700 Single Axle Dump Truck with plow and snow equipment on the terms and conditions of purchase established by the Ohio Department of Administrative Services.

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

1. That the City Manager is authorized to purchase 2018 Western Star 4700 Single Axle Dump Truck with plow and snow equipment from Kinstle Sterling/Western Star Truck Center on the terms and conditions of purchase established by the Ohio Department of Administrative Services and at a cost not to exceed \$175,000.00.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R – 10 – 17 – 52

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH REINEKE FORD FOR THE PURCHASE OF 2017 FORD F550 DUMP TRUCK WITH PLOW AND SNOW EQUIPMENT AT A COST NOT TO EXCEED \$91,500.00

WHEREAS, R.C. § 125.04 (C) provides for the procedure whereby purchases of supplies or services may be made by political subdivisions without competitive bidding from another party instead of through participation in State Bid contracts if the political subdivision can purchase those supplies or services from the other party upon equivalent terms, conditions, and specifications but at a lower price than it can through the State Bid contracts; and

WHEREAS, City staff has determined that the 2017 Ford F550 Dump Truck with Plow and Snow Equipment can be purchased from Reineke Ford at a lower price than through State Bid contracts, pursuant to O.R.C. 125.04(C).

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

1. That the City Manager is authorized, pursuant to Ohio Revised Code 125.04(C), to purchase from Reineke Ford a 2017 Ford F550 Dump Truck with Plow and Snow Equipment at a cost not to exceed \$91,500.00.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R – 10 – 17 – 53

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT APPLICATIONS FOR FEDERAL FAST ACT FUNDS THROUGH THE MIAMI VALLEY REGIONAL PLANNING COMMISSION

WHEREAS, the Miami Valley Regional Planning Commission (MVRPC) has solicited local government entities to submit new transportation projects for funding consideration in the Transportation Improvement Program (TIP); and

WHEREAS, the City of Clayton has committed to a timely project development schedule; and

WHEREAS, the City of Clayton will commit the necessary resources to support the estimated local cost portion of the projects and the following list of projects will be submitted to MVRPC, shown in the order of the City of Clayton's priority from number 1 to 3:

1. Hoke Road Resurfacing - \$116,225
2. Wenger/Salem St. Resurfacing - \$160,771
3. Garber Resurfacing - \$50,188

WHEREAS, the City of Clayton requests the following exemptions from MVRPC's Complete Streets Policy for the proposed project funding applications: The project qualifies for an exception because it consists of a resurfacing project of an existing cross-section only and the scarcity of population and traffic due to low density residential and agricultural uses of the surrounding land indicate an absence of need for multimodal transportation infrastructure.

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

1. That this Resolution shall serve to authorize the City Manager to transmit and submit applications for the following transportation projects for MVRPC for funding consideration in the Transportation Improvement Project (TIP):
 - a. Hoke Road Resurfacing - \$116,225
 - b. Wenger/Salem St. Resurfacing - \$160,771
 - c. Garber Resurfacing - \$50,188
2. The City Manager is hereby authorized to sign on behalf of the City of Clayton the applications for funds as referred to in Paragraph 1 of this Resolution.
3. The City Manager is hereby directed and authorized to take or cause to be taken all other actions necessary and proper to secure the funding sought by the application referred to herein, and provide any additional information sought by reviewing agencies during the time the applications are under review. The City Manager is further directed and authorized to cause compliance with all reporting requirements required by the MVRPC as required as part of the funding process.
4. Upon application approval, the City hereby states its commitment to the local contribution for the project as identified in these applications, including local contribution costs exceeding the current estimates or subsequent revised estimates as accepted by MVRPC.

5. It is hereby 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 any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.
6. This Resolution shall become effective immediately upon its passage per the Clayton Charter.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R -10 - 17 - 54

**A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS
DETERMINED BY THE MONTGOMERY COUNTY BUDGET
COMMISSION AND AUTHORIZING THE NECESSARY TAX
LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR**

WHEREAS, pursuant to R.C. 5705.281 and .30 the Budget Commission of Montgomery County has waived the requirement that political subdivisions within the County adopt a Tax Budget for submission to the Budget Commission; and

WHEREAS, pursuant to R.C. 5705.34 and .35 the Budget Commission of Montgomery County, Ohio has completed its work relative to preparation of a Tax Budget for the City of Clayton and certified its action to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council and what part thereof is without, and what part within, the ten mill tax limitation provided under Ohio statute.

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

1. That the amounts and rates, as determined by the Budget Commission in its certification, are hereby accepted.
2. That there be and is hereby levied on the tax duplicate of said City of Clayton the rate of each tax necessary to be levied within and without the ten mill limitation as set forth on **Schedules A and B** appended hereto and made a part hereof.
3. That the Clerk of Council be and is hereby directed to certify a copy of this Resolution to the Montgomery County Auditor.

ADOPTED BY COUNCIL ON OCTOBER 5, 2017

RESOLUTION NO. R – 10 – 17 – 55

A RESOLUTION APPROVING AMENDMENT OF 2017 APPROPRIATIONS AND ESTIMATED RESOURCES

WHEREAS, during the operation of the City of Clayton certain expenditures are required to provide required governmental services; and

WHEREAS, the expenditures must be in accordance with requirements provided by applicable state law and be applied against certain designated City funds; and

WHEREAS, certain transfers of moneys within and between specified City funds may be required to comply with accounting requirements established by the office of the State Auditor of Ohio; and

WHEREAS, certain appropriations are necessary to authorize payment from certain funds; and

WHEREAS, Council previously approved the Original Certificate of Estimated Resources and Appropriations; and

WHEREAS, the Finance Director has requested amendment of the 2017 Appropriations and Estimated Resources with respect to the General Fund (101) and the Capital Improvement Fund (150) to account for the purchase of street department equipment.

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

1. That the following amendments are hereby approved as follows and all appropriation amendments below are for operating expenses:

<u>Fund</u>	<u>Estimated Resource Amount</u>	<u>Appropriation Amount</u>
General Fund (101)	\$275,000	\$275,000
Capital Improvement Fund (150)	\$366,500	\$366,500

2. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to effect such amendments and appropriations and evidence same on the books and financial record of the City.