

September 1, 2017

TO: Mayor and City Council Members

FROM: Brian K. Riblet, Interim City Manager **BKR**

SUBJECT: City Council Business Session of Wednesday, September 6, 2017

As a reminder, City Council is scheduled to meet in Business Session on Wednesday, September 6, 2017 at 7:00 p.m.

**Business Session**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Special Presentations
5. Guests and Residents
6. Legislation for Consideration Tonight
  - a. A Resolution Correcting Resolution No. 25, 2017 Concerning Compensation for the Interim City Manager—Please find attached correspondence from Law Director Terry Donnellon, requesting that City Council approve a Resolution that will correct Resolution No. 25, 2017 to properly state Brian Riblet's compensation as Interim City Manager to be sure that the additional compensation qualifies for his pension.

***Assign to a Council Member for Reading***

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

## **Pending Legislation**

- a. An Ordinance Accepting Dedicated Stormwater Improvements in The Montgomery Woods Subdivision—(Mr. Margolis-3<sup>rd</sup> Reading) Information has been previously supplied on this Ordinance that, if approved, will accept certain stormwater improvements constructed several years ago, within the Montgomery Woods Subdivision. It was discovered in a review of City records that a portion of the stormwater improvement on Lakewater Drive had been accepted by Sycamore Township where a portion of the subdivision was in its jurisdiction, but the second portion of the same sewer line located in the City of Montgomery had not been properly accepted. This Ordinance will correct that mistake so the entire stormwater improvement is accepted and maintained by the City.

***Move for passage of the Ordinance***

***Roll Call Vote***

- b. A Resolution Authorizing a Reimbursement Agreement with Gateway Partners, LLC—(Mr. Suer) Information has been previously supplied on this Resolution that, if approved, will authorize reimbursement to Gateway Partners, LLC for interim engineering design costs that Gateway Partners may incur while we finalize negotiations for the project.

***City Council voted to table this Resolution at the July 19, 2017 Work Session, until further notice. No further action is needed at this time. City Council would need to make a motion to move this Resolution from tabled status when ready to take action.***

## **New Legislation**

- a. A Resolution Establishing City Contributions for Health Care Benefits—(Mrs. Harbison) Information has been previously supplied on this Resolution that, if approved, would establish the City's maximum contribution limits (caps) for medical and dental insurance which determines the amount of money the employees must contribute toward the cost of their health and dental insurance coverages. Typically, the City has increased these "caps" annually by six percent (6%) for medical insurance and three percent (3%) for dental insurance. This practice allows for some increase in the cost of healthcare but also ensures that the increased costs are shared between the City and its employees. The recommended caps for the upcoming 2017-2018 medical and dental insurance plan years are already in place in existing union contracts.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- b. A Resolution Authorizing the Interim City Manager to Enter into a Contract with Humana Health Plan of Ohio to Provide Medical Coverage and Life Insurance for Full-Time Employees—(Mrs. Harbison) Information has been previously supplied on this Resolution that, if approved, would authorize the Interim City Manager to enter into a contract with Humana Health Plan of Ohio, Inc. for medical insurance coverage for the City's full-time employees. Each year, the City must bid its medical insurance coverage. The proposals are evaluated by the Health Care Benefits Committee, which takes into account benefit levels and coverage costs to make a recommendation as to the desired provider of medical insurance coverage, as well as any changes to current benefit levels to achieve cost savings. For the benefit period that runs from October 1, 2017 through September 1, 2018, the Health Care Benefits Committee is recommending that the City remain with Humana, the current medical insurance carrier. The health care plan being recommended would continue to provide full-time employees one High Deductible Health Plan with a Health Savings Account (HDHP/HSA) with deductible levels of \$3,000/\$6,000 (single/family) with four levels of coverage: single, employee with child(ren), employee with spouse and family. The Humana proposal represents a zero percent increase from the 2016-2017 plan year premium. In addition to the zero percent increase in premium costs, it should be noted that participation in Humana's employee and family member's wellness program (Go365) has resulted in savings on premiums for the City. During the current benefit period, the City has realized a savings of \$15,299 as a result of member participation in the Go365 program. During the previous plan year period, the City realized a savings of \$13,445.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- c. A Resolution Authorizing the Interim City Manager to Enter into a Contract with Dental Care Plus to Provide Dental Insurance Coverage for Full-Time Employees—(Mrs. Harbison) Information has been previously supplied on this Resolution that, if approved, would authorize the Interim City Manager to enter into a contract with Dental Care Plus, Inc. for dental insurance coverage for the City's full-time employees. Periodically, the City must bid its dental insurance coverage. The proposals are evaluated by the Health Care Benefits Committee, which considers coverages and costs and makes a recommendation as to the desired provider of dental insurance coverage, as well as any changes to current coverages to achieve cost savings. For the two-year benefit period October 1, 2017 through September 1, 2019, the Health Care Benefits Committee is recommending that the City remain with its current dental insurance carrier. Dental Care Plus, Inc. quoted a 4% and 4% increase over the two-year period and offers a provider network and plan design that is superior to other dental insurance plans. It should be noted that Dental Care Plus experienced a poor loss ratio with our group during the current benefit period during which the City experienced a zero percent increase in rates.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- d. A Resolution Authorizing the Interim City Manager to Enter into a LPA Local-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the HAM-SR 126/US 22-20.00/13.19 PID#104936—(Ms. Roesch) Information has been previously supplied on this Resolution that, if approved, would authorize a Local-Let Project Agreement (LPA) with the Ohio Department of Transportation (ODOT) for the HAM-SR 126/US 22-20.00/13.19 PID#104936. This LPA agreement will allow the City to be the “lead” agency for advertising, awarding and inspecting the construction of a multi-lane roundabout to replace the existing interchange of SR-126 and Montgomery Road (US-22/SR-3). The City has been approved for funding through the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) in the amount of \$6,000,000. This amount represents 70% of the overall project cost of \$8,571,429. The LPA agreement includes the requirement for the City of Montgomery to be responsible for up to \$2,571,429 of the total project cost estimate. If the project cost exceeds \$8,571,429 the City of Montgomery would be responsible for 100% of the project costs exceeding that amount. Funding for the project is currently included in the 2020 Montgomery Capital Improvement Program (CIP) budget, however, it is anticipated a roundabout construction fund will be requested in the upcoming 2018-2022 budget process.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- e. A Resolution Authorizing the Interim City Manager to enter into a LPA Local-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the HAM-US 22-14.74 Montgomery Sidewalks PID#104934—(Ms. Roesch) Information has been previously supplied on this Resolution that, if approved, would authorize a LPA Local-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the HAM-US 22-14.74 Montgomery Sidewalks PID#104934. This LPA agreement will also allow the City to be the “lead” agency for advertising, awarding and inspecting the construction of a concrete sidewalk on the east side of Montgomery Road from Radabaugh Drive to just south of Hopewell Road. The City has been approved for a reimbursement grant of up to \$386,680. This amount represents 80% of the overall project cost of \$483,350. The LPA agreement includes the requirement for the City of Montgomery to be responsible for up to \$96,670 of the total project cost estimate. If the project cost exceeds \$483,350 the City of Montgomery would be responsible for 100% of the project costs exceeding that amount. Funding for the project is currently included in the 2021 Montgomery Capital Improvement Program (CIP) budget.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- f. A Resolution Authorizing an Intergovernmental Agreement between the City and the Hamilton County Transportation Improvement District—(Mr. Margolis) Information has been previously supplied on this Resolution that, if approved, would authorize an Intergovernmental Agreement between the City and the Hamilton County Transportation Improvement District. Upon application by the City to the Hamilton County Transportation Improvement District, the City was awarded a grant of up to \$250,000 to provide reimbursement for engineering and design support for the Montgomery Road/Ronald Reagan Interchange Improvements Project. This legislation authorizes the Interim City Manager to execute an Intergovernmental Agreement with the HCTID to co-administer and co-manage the Project. The City may be eligible for additional funding in future fiscal years during the term of the Project.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

**8. Administration Report**

- 9. Approval of Minutes** —August 23, 2017 Work Session; August 7, August 9 and August 16, 2017 Search Committee Special Sessions

**10. Mayor’s Court Report**

**11. Other Business**

**12. Executive Session**

**13. Adjournment**

Should you have any questions or concerns regarding this information, please do not hesitate to contact me.

- C: Connie Gaylor, Administrative Coordinator  
Department Heads  
Terry Donnellon, Law Director

September 6, 2017

City Council Business Session – 7:00 p.m.

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Special Presentation
5. Guests and Residents
6. Legislation for Consideration Tonight
  - a. A Resolution Correcting Resolution No. 25, 2017 Concerning Compensation for the Interim City Manager  
*Assign to a Council Member for Reading*  
*Move to read the Resolution by title only*  
*Voice Vote*  
*Move passage of the Resolution*  
*Roll Call Vote*

Pending Legislation

- a. An Ordinance Accepting Dedicated Stormwater Improvements in The Montgomery Woods Subdivision—(Mr. Margolis-3<sup>rd</sup> Reading)  
*Move for passage of the Ordinance*  
*Roll call Vote*
- b. A Resolution Authorizing a Reimbursement Agreement with Gateway Partners, LLC—(Mr. Suer)  
*City Council voted to table this Resolution at the July 19, 2017 Work Session, until further notice. No further action is needed at this time. No further action is needed at this time. City Council would need to make a motion to move this Resolution from tabled status when ready to take action.*

New Legislation

- a. A Resolution Establishing City Contributions for Health Care Benefits—(Mrs. Harbison)  
*Move to read the Resolution by title only*  
*Voice Vote*  
*Move passage of the Resolution*

**Roll Call Vote**

- b. A Resolution Authorizing the City Manager to Enter into a Contract with Humana Health Plan of Ohio to Provide Medical Coverage and Life Insurance for Full-Time Employees—(Mrs. Harbison)

**Move to read the Resolution by title only**

**Voice Vote**

**Move passage of the Resolution**

**Roll Call Vote**

- c. A Resolution Authorizing the City Manager to Enter into a Contract with Dental Care Plus to Provide Dental Insurance Coverage for Full-Time Employees— (Mrs. Harbison)

**Move to read the Resolution by title only**

**Voice Vote**

**Move passage of the Resolution**

**Roll Call Vote**

- d. A Resolution Authorizing the Interim City Manager to Enter into a LPA Local-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the HAM-SR 126/US 22-20.00/13.19 PID#104936—(Ms. Roesch)

**Move to read the Resolution by title only**

**Voice Vote**

**Move passage of the Resolution**

**Roll Call Vote**

- e. A Resolution Authorizing the Interim City Manager to enter into a LPA Local-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the HAM-US 22-14.74 Montgomery Sidewalks PID#104934—(Ms. Roesch)

**Move to read the Resolution by title only**

**Voice Vote**

**Move passage of the Resolution**

**Roll Call Vote**

- f. A Resolution Authorizing an Intergovernmental Agreement between the City and the Hamilton County Transportation Improvement District—(Mr. Margolis)

**Move to read the Resolution by title only**

**Voice Vote**

**Move passage of the Resolution**

**Roll Call Vote**

**7. Administration Report**

**8. Approval of Minutes** —August 23, 2017 Work Session; August 7, August 9 and August 16, 2017  
Search Committee Special Sessions

**9. Mayor's Court Report**

**10. Other Business**

**11. Executive Session**

**12. Adjournment**

Should you have any questions or concerns regarding this information, please do not hesitate to contact me.

C: Connie Gaylor, Administrative Coordinator  
Department Heads  
Terry Donnellon, Law Director

TO: Mayor Chris Dobrozi  
Members of City Council

FROM: Terrence M. Donnellon

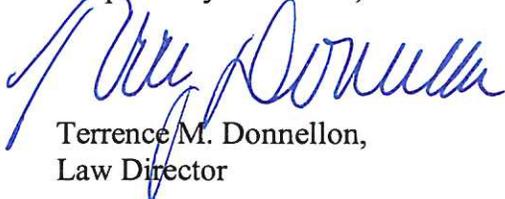
RE: Correcting Compensation  
For Interim City Manager

DATE: August 31, 2017

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After Council passed Resolution No. 25, 2017, the Administration was advised by the Ohio Public Employees Retirement System that to properly credit Mr. Riblet with the Pension Office for his service as interim City Manager, his compensation must be restated as an annual salary. This Resolution corrects Resolution No. 25, 2017 by restating the compensation by increasing Mr. Riblet's annual compensation by \$24,000.00 per year during the period of time he serves in that role. Brian's annual salary will be apportioned over each of the pay periods during the time he serves as interim City Manager.

Respectfully submitted,



Terrence M. Donnellon,  
Law Director

TMD/lac

Enclosure

cc: Brian Riblet, Acting City Manager  
Connie Gaylor, Administrative Coordinator  
Department Heads  
File

**RESOLUTION NO. \_\_\_\_\_, 2017**

**A RESOLUTION CORRECTING RESOLUTION NO. 25, 2017 CONCERNING  
COMPENSATION FOR THE INTERIM CITY MANAGER**

**WHEREAS**, on August 23, 2017 Council did enact Resolution No. 25, 2017 setting forth additional compensation to be paid to Brian Riblet while serving in the role as Interim City Manager effective August 21, 2017; and

**WHEREAS**, the Ohio Public Employees Retirement System has indicted that to properly credit Brian Riblet for service in his role as Interim City Manager, the compensation must be properly restated as an annual salary; and

**WHEREAS**, Council does desire to correct Resolution No. 25, 2017 to comply with the requirements of the Ohio Public Employees Retirement System.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** Effective August 21, 2017, Brian Riblet's salary in the combined role as Public Works Director and Interim City Manager shall be set at \$149,465.50 per year. He shall receive the proportionate share of this salary during the term he shall serve in this dual role. His salary shall be apportioned during effective pay periods for this service effective August 21, 2017.

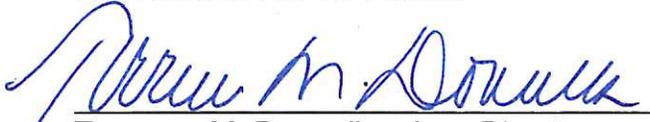
**SECTION 2.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
Terrence M. Donnellon, Law Director

**ORDINANCE NO.                   , 2017**

**AN ORDINANCE ACCEPTING DEDICATED STORMWATER IMPROVEMENTS  
IN THE MONTGOMERY WOODS SUBDIVISION**

**WHEREAS**, a portion of the Montgomery Woods Subdivision was developed under the authority of Sycamore Township and the City of Montgomery, but later the entire subdivision was annexed into the City of Montgomery by Resolution No. 35, 1979; and

**WHEREAS**, a subdivision plat was prepared and accepted by Sycamore recorded at Plat Book 202, Page 79-A, a copy of which is attached hereto; and

**WHEREAS**, such subdivision plat did dedicate certain stormwater improvements running on and across Auditor's parcel numbers 603-0026-0050/0051/0052; and

**WHEREAS**, records indicate that a portion of the improvements located within the City of Montgomery were never properly accepted by the City within the plat; and

**WHEREAS**, after inspecting the stormwater improvements the Administration has recommended the City formally accept such dedicated public improvements as they have been constructed consistent with our engineering standards and have been maintained accordingly since installation.

**NOW THEREFORE, BE IT ORDAINED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The stormwater easement and stormwater improvements as depicted on the attached Exhibit A, being Plat Book 202, Page 79-A of the Official

Records of Hamilton County, Ohio, are hereby accepted as more specifically located on Auditor's Parcel Numbers 603-0026-0050, 603-0026-0051, and 603-0026-0052, being also known as Lots 33, 34 and 35 of the Montgomery Woods Subdivision, Block D.

**SECTION 2.** The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the Auditor and Recorder of Hamilton County, Ohio, to place this Ordinance of public record showing that the dedicated improvements have been completed and accepted for public use by the City of Montgomery, Ohio.

**SECTION 3.** The City Manager is authorized to execute any and all documentation necessary to complete this dedication and acceptance.

**SECTION 4.** All Ordinances or parts of Ordinances inconsistent herewith are hereby appropriately amended and/or repealed.

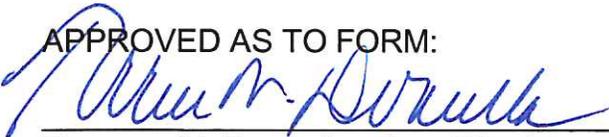
**SECTION 5.** This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

RESOLUTION NO. , 2017

**A RESOLUTION AUTHORIZING A REIMBURSEMENT AGREEMENT  
WITH GATEWAY PARTNERS, LLC**

**WHEREAS**, the City has been in negotiations with Gateway Partners, LLC (“Gateway”) concerning the development of the Gateway Redevelopment Area Project; and

**WHEREAS**, a final Development Agreement has not been concluded, but Gateway needs to initiate engineering and design services to meet its timeline for completion of the project; and

**WHEREAS**, while the parties continue their negotiations, the City is in agreement to provide reimbursement to Gateway for engineering and design services they may incur in the event negotiations are terminated or a Development Agreement is terminated without Gateway being able to complete the project; and

**WHEREAS**, the Scope of such services is anticipated to exceed the \$50,000 limit the City Manager is authorized to approve without legislation, and therefore this Resolution is necessary to execute such Agreement to provide the appropriate reimbursement and purchase of such design and engineering services in the event negotiations are terminated.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The City Manager is hereby authorized to execute the attached Reimbursement Agreement with Gateway Partners, LLC to commit the City to reimburse Gateway Partners, LLC for any interim costs incurred during final negotiations for advances

they may make for engineering and design services in the event such negotiations are terminated. Consistent with the scope of the Agreement, if such reimbursement is required, the City will acquire all engineering and design documents and be released from further liability to Gateway Partners, LLC or its investors.

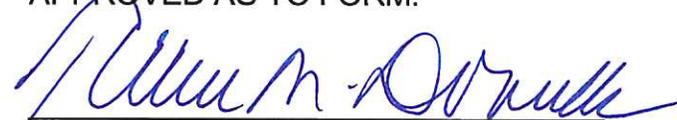
**SECTION 2.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

## REIMBURSEMENT AGREEMENT

This Reimbursement Agreement (this "Agreement") is entered into this \_\_\_\_\_ day of July, 2017 by and between GATEWAY PARTNERS, LLC ("Gateway") and the CITY OF MONTGOMERY, OHIO, an Ohio municipal corporation ("Montgomery").

WHEREAS, Gateway and Montgomery have been negotiating a Development Agreement for the development of certain real property located in the City of Montgomery, Ohio, and in order to complete the terms of the Development Agreement certain design/engineering drawings need to be completed; and

WHEREAS, Gateway is willing to advance the costs and pay for the design/engineering drawings so long as Montgomery agrees to reimburse Gateway in the event that the Development Agreement is not agreed-upon; and

WHEREAS, Montgomery is willing to reimburse Gateway for such advancement of costs as provided for herein.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Proceed with Design. Gateway shall proceed with obtaining the necessary design/construction drawings necessary to firm up the cost of construction and development of the Gateway project. Such advancements shall not exceed \$404,000. A specific Scope of Work for reimbursable expenses is attached hereto as Schedule A.

2. Reimbursement. If the Development Agreement is not agreed-upon between Gateway and Montgomery by September 30, 2017, then Montgomery shall reimburse Gateway its costs to prepare the design and engineering drawings identified upon Schedule A. At Montgomery's option, Montgomery may authorize any work in progress to continue until conclusion.

3. Funding and Release. Upon termination of the negotiations as provided herein, Montgomery shall pay Gateway for the Scope of Work defined within Schedule A, all such work completed to such date and paid by Gateway. In exchange for such payment, Gateway and its development partners, Brandicorp, LLC, Traditions Land Development Group, LLC and Greiwe Development, shall release and discharge the City of Montgomery, Ohio, the Montgomery Community Improvement Corporation and their elected officials, officers and employees, from any and all claims related in any way to the negotiations entered into a Development Agreement or any alleged breach of the Development Agreement. Further, in exchange for the reimbursement payment, Gateway and/or its design contractors shall deliver all design and/or engineering drawings to Montgomery, and thereafter Montgomery shall have the exclusive use and control of such drawings.

GATEWAY PARTNERS, LLC,  
an Ohio limited liability company

By: \_\_\_\_\_  
Thomas H. Humes  
Its: Managing Member

CITY OF MONTGOMERY, OHIO  
An Ohio municipal corporation

By: \_\_\_\_\_  
Wayne S. Davis  
Its: City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Terrence M. Donnellon  
Law Director

6/30/2017

Montgomery Development Partners  
Planning Expenses

Montgomery GRA  
Engineering Cost Estimates

Consultant	Disicipline	Future Expenses Up to Signed Development Agreement
<b>Planning / Design</b>		
MKSK	Land Planning	\$ 82,000
Gossman Group	Architecture	\$ 12,000
McGill Smith Punshon	Civil Engineering	\$ 200,000
KZF Design	Architecture / Preliminary Garage Analysis	\$ 40,000
THP	Parking Garage Design	\$ 50,000
Miscellaneous		\$ 20,000
<b>SUBTOTAL DESIGN</b>		<b>\$ 404,000</b>

**SCHEDULE A**

RESOLUTION NO. , 2017

**A RESOLUTION ESTABLISHING CITY CONTRIBUTIONS  
FOR HEALTHCARE BENEFITS**

**WHEREAS**, Section 34.01 (C) of the Code of Ordinances sets forth the procedure for Council to establish healthcare insurance costs and benefits for City employees; and

**WHEREAS**, by Resolution No. 27, 2017 passed August 2, 2017 Council did approve contributions to be made to employees' health savings accounts for the employer sponsored high deductible health plan ("HDHP"); and

**WHEREAS**, Council must establish the contribution limits for both medical and dental insurances.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The following contribution limits are established for the cost of medical and dental plans for the year beginning October 1, 2017:

***Medical Benefit***  
***City Contribution Limit Per Month – Family Plan***  
*\$1,245.83 effective October 1, 2017*

***Medical Benefit***  
***City Contribution Limit Per Month – Single Plan***  
*\$452.75 effective October 1, 2017*

***Medical Benefit***  
***City Contribution Limit Per Month – Employee and Spouse Plan***  
*\$905.10 effective October 1, 2017*

**Medical Benefit**  
**City Contribution Limit Per Month – Employee and Child(ren) Plan**  
\$905.10 effective October 1, 2017

**Dental Insurance**  
**City Contribution Limit Per Month – All Plans**  
\$171.13 effective October 1, 2017

If the cost to provide such insurance coverage exceeds the contribution limits established by City Council, fifty percent (50%) of the cost in excess of such contribution limit shall be paid by the City and fifty percent (50%) of the cost in excess of the contribution limit shall be paid by the employee. Insurance cost payments to be paid by the employee shall be made by payroll deduction.

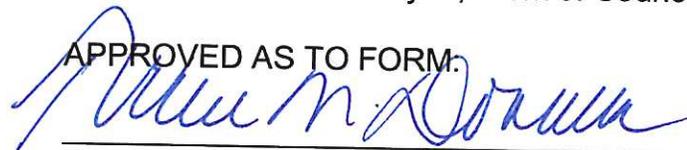
**SECTION 2.** This Resolution shall take effect the earliest opportunity as allowable by law.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

RESOLUTION NO. \_\_\_\_\_, 2017

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO A CONTRACT WITH HUMANA HEALTH PLAN OF OHIO, INC.  
TO PROVIDE MEDICAL INSURANCE FOR FULL-TIME EMPLOYEES**

**WHEREAS**, the City of Montgomery provides medical insurance benefits to its full-time employees; and

**WHEREAS**, the City has requested and reviewed proposals for medical insurance benefits and determined that the proposal submitted by Humana Health Plan of Ohio, Inc. is the best proposal for City employees in terms of quality, price, service and adaptability.

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of Montgomery, Ohio:

**SECTION 1.** The City Manager is hereby authorized to enter into a contract with Humana Health Plan of Ohio, Inc. to provide medical insurance benefits for all full-time employees for twelve months commencing October 1, 2017 through September 30, 2018, subject to any separate requirements from any Collective Bargaining Agreement between the City and any employee group during the term of this benefit contract.

**SECTION 2.** The City Manager is hereby authorized to pay Humana Health Plan of Ohio, Inc. according to the rates set forth in the schedule submitted by Humana attached hereto as Exhibit "A" and incorporated herein by reference.

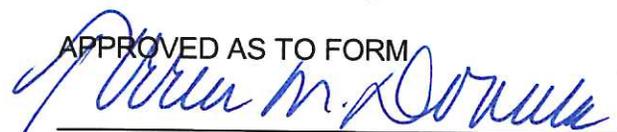
**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

# City of Montgomery

## Medical Plan Analysis 7.27.2017

October 1, 2017 Renewal

Exhibit "A" page 1 of 2

Non Chamber rates  
 Bundling discounts: 1% dental,  
 .5% vision

Counts	Current	Renewal	Renewal - Revised	Option 1	Option 2
Employee Only 12	Humana OH 100/70 EHDHP 14 NPOS Opt 13 \$3000 embedded	Humana OH 100/70 EHDHP 16 NPOS Opt 13 \$3000 embedded	Humana OH 100/70 EHDHP 16 NPOS Opt 13 \$3000 embedded	Anthem Lumenos HSA Option E3 Rx E36 ERC embedded	Anthem Lumenos HSA Option E3 Rx E36 embedded
Employee + Spouse 9	\$402.50 \$885.50	\$453.65 \$988.03	\$402.50 \$885.50	\$376.83 \$829.03	\$388.49 \$854.67
Employee + Child(ren) 13	\$764.75	\$861.94	\$764.75	\$715.98	\$738.12
Family 27	\$1,288.00	\$1,451.68	\$1,288.00	\$1,205.86	\$1,243.15
Combined Est. Monthly Premium	\$57,517.25	\$64,826.65	\$57,517.25	\$53,849.19	\$55,514.52
Combined Est. Annual Premium	\$690,207.00	\$777,919.80	\$690,207.00	\$646,190.28	\$666,174.24
Percentage Change From Current	0%	12.7%	0.0%	-6%	-3%
Annual Dollar Change From Current	\$0.00	\$87,712.80	\$0.00	(\$44,016.72)	(\$24,032.76)
What type of medical plan is this?	In-Network	Out-of-Network	In-Network	In-Network	Out-of-Network
eductible	EHDHP	EHDHP	EHDHP	EHDHP	EHDHP
Calendar Year or Policy Year?	Calendar year	Calendar year	Calendar year	Calendar year	Calendar year
Individual/Family	\$3,000/\$6,000	\$9,000/\$18,000	\$3,000/\$6,000	\$3,000/\$6,000	\$3,000/\$6,000
Insurance	100/0	70/30	100/0	100/0	100/0
t-of-Pocket Maximum	Yes	Yes	Yes	Yes	Yes
Deductible Included?	\$3,000/\$6,000	\$15,000/\$30,000	\$3,000/\$6,000	\$4,000/\$8,000	\$4,000/\$8,000
Individual/Family	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
atime Maximum	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
atient Hospital	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Facility	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Physician	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
patient	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 70/30	Ded, 70/30
Facility	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Physician	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Preventive Lab	Covered in full	Covered in full	Covered in full	Covered in full	Covered in full
Diagnostic Lab	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 70/30	Ded, 70/30
Emergency Room	Ded, 100/0	Ded, 100/0	Ded, 100/0	Ded, 100/0	Ded, 100/0
gent Care	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
ice Visit	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Primary Care/Specialist Visit	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 70/30	Ded, 70/30
Wellness	Covered in full	Ded, 70/30	Ded, 70/30	Ded, 70/30	Ded, 70/30
Vision	Not covered	Not covered	Not covered	Not covered	Not covered
cription Drugs	Same as Medical	Same as Medical	Same as Medical	Same as Medical	Same as Medical
Deductible	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Tier 1/Tier 2/Tier 3/Tier 4	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 100/0	Ded, 100/0
Mail-Order	Ded, 100/0	Ded, 70/30	Ded, 100/0	Ded, 70/30	Not covered

# City of Montgomery

## Medical Plan Analysis 7.27.2017

October 1, 2017 Renewal

Exhibit "A" page 2 of 2

	Current	Option 3	Option 4	Option 5
	Humana OH EHDHP 14 NPOS Opt 13 \$3000 embedded	Medical Mutual Of Ohio Option 1 embedded	UnitedHealthcare AN-EO Simple Choice HSA Rx 461-HSA embedded	Jefferson Health Plan embedded
<b>Rates</b>				
Employee Only	12 \$402.50	\$451.68	\$456.38	\$424.22
Employee + Spouse	9 \$885.50	\$993.70	\$958.40	\$923.30
Employee + Child(ren)	13 \$764.75	\$813.02	\$867.12	\$823.49
Family	27 \$1,288.00	\$1,355.04	\$1,369.14	\$1,362.31
<b>Combined Est. Monthly Premium</b>	\$57,517.25	\$61,518.80	\$62,341.50	\$60,888.08
<b>Combined Est. Annual Premium</b>	\$690,207.00	\$738,225.60	\$748,098.00	\$730,656.96
<b>Percentage Change From Current</b>	0%	7%	8%	6%
Annual Dollar Change From Current	\$0.00	\$48,018.60	\$57,891.00	\$40,449.96
<b>Benefits</b>	In-Network	Out-of-Network	In-Network	Out-of-Network
<b>What type of medical plan is this?</b>	EHDHP	EHDHP	EHDHP	EHDHP
<b>Deductible</b>	Calendar year Individual/Family \$3,000/\$6,000 100/0	Calendar year Individual/Family \$9,000/\$18,000 70/30	Calendar year Individual/Family \$3,000/\$6,000 100/0	Calendar year Individual/Family \$3,000/\$6,000 100/0
<b>Out-of-Pocket Maximum</b>	Yes \$3,000/\$6,000 Unlimited	Yes \$15,000/\$30,000 Unlimited	Yes \$3,000/\$6,000 Unlimited	Yes \$3,000/\$6,000 Unlimited
<b>Lifetime Maximum</b>	Yes \$3,000/\$6,000 Unlimited	Yes \$15,000/\$30,000 Unlimited	Yes \$15,000/\$30,000 Unlimited	Yes \$15,000/\$30,000 Unlimited
<b>Inpatient Hospital</b>	Facility Ded, 100/0 Physician Ded, 100/0	Facility Ded, 70/30 Physician Ded, 70/30	Facility Ded, 100/0 Physician Ded, 100/0	Facility Ded, 100/0 Physician Ded, 100/0
<b>Outpatient</b>	Facility Ded, 100/0 Physician Ded, 100/0	Facility Ded, 70/30 Physician Ded, 70/30	Facility Ded, 100/0 Physician Ded, 100/0	Facility Ded, 100/0 Physician Ded, 100/0
<b>Labs</b>	Preventive Lab Covered in full Diagnostic Lab Ded, 100/0 Emergency Room Ded, 100/0 Urgent Care Ded, 100/0	Preventive Lab Covered in full Diagnostic Lab Ded, 70/30 Emergency Room Ded, 100/0 Urgent Care Ded, 70/30	Preventive Lab Covered in full Diagnostic Lab Ded, 100/0 Emergency Room Ded, 100/0 Urgent Care Ded, 100/0	Preventive Lab Covered in full Diagnostic Lab Ded, 100/0 Emergency Room Ded, 100/0 Urgent Care Ded, 100/0
<b>Office Visit</b>	Primary Care/Specialist Visit Ded, 100/0 Wellness Covered in full Vision Not covered	Primary Care/Specialist Visit Ded, 70/30 Wellness Ded, 70/30 Vision Not covered	Primary Care/Specialist Visit Ded, 100/0 Wellness Covered in full Vision Not covered	Primary Care/Specialist Visit Ded, 100/0 Wellness Covered in full Vision Not covered
<b>Prescription Drugs</b>	Deductible Tier 1/Tier 2/Tier 3/Tier 4 Mail-Order	Same as Medical Ded, 100/0 Ded, 100/0 Ded, 100/0	Same as Medical Ded, 100/0 Ded, 100/0 Ded, 100/0	Same as Medical Ded, 100/0 Ded, 100/0 Ded, 100/0

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO A CONTRACT WITH DENTAL CARE PLUS, INC.  
TO PROVIDE DENTAL INSURANCE COVERAGE FOR FULL-TIME EMPLOYEES**

**WHEREAS**, the City of Montgomery provides dental insurance benefits to its full-time employees; and

**WHEREAS**, the City has requested and reviewed proposals for dental insurance benefits and determined that the proposal submitted by Dental Care Plus, Inc. is the best proposal for City employees in terms of quality, price, service and adaptability.

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of Montgomery, Ohio:

**SECTION 1.** The City Manager is hereby authorized to enter into a contract with Dental Care Plus, Inc. to provide dental benefits for all full-time employees for twenty-four months commencing October 1, 2017 through September 30, 2019, subject to any separate requirements from any Collective Bargaining Agreement between the City and any employee group during the term of this benefit contract.

**SECTION 2.** The City Manager is hereby authorized to pay Dental Care Plus, Inc. according to the rates set forth in the schedule submitted by Dental Care Plus, Inc. attached hereto as Exhibit "A" and incorporated herein by reference.

**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

# City of Montgomery

Dental Plan Analysis 7.27.2017

October 1, 2017 Renewal

Exhibit "A"

rates includes dependent coverage to age 26

Plan	Current Dental Care Plus \$10 copay plan	Renewal Dental Care Plus \$10 copay plan	Renewal - Revised Dental Care Plus \$10 copay plan	Renewal - Revised 8/1 Dental Care Plus \$10 copay plan	Renewal - Revised Dental Care Plus \$10 copay plan	Option 1 Anthem Anthem Dental	Option 2 Principal	Option 3 LNL - rates based on package pricing
Single	\$30.55	\$32.99	\$31.77	\$31.77	\$32.38	\$26.84	\$27.33	\$28.11
Double	\$61.10	\$65.99	\$63.54	\$63.54	\$64.77	\$53.68	\$53.55	\$56.21
Family	\$103.28	\$111.54	\$107.41	\$107.41	\$109.48	\$90.73	\$97.15	\$95.02
Combined Est. Monthly Premium	\$4,529.91	\$4,892.22	\$4,710.96	\$4,710.96	\$4,801.83	\$3,979.59	\$4,157.55	\$4,167.60
Combined Est. Annual Premium	\$54,358.92	\$58,706.64	\$56,531.52	\$56,531.52	\$57,621.96	\$47,755.08	\$49,890.60	\$50,011.20
Percentage Change From Current	0%	8%	4%	4%	6%	-12%	-8%	-8%
Annual Dollar Change From Current	\$0.00	\$4,347.72	\$2,172.60	\$2,172.60	\$3,263.04	(\$6,603.84)	(\$4,468.32)	(\$4,347.72)
Benefit Guarantees	In-Network	In-Network	In-Network	In-Network	In-Network	In-Network	In-Network	In-Network
Waiting Period	2 years	1 year	1 year	2 years	2 years	1 year	1 year	1 year
Benefit Basis (UCR or Fee?)	none	none	none	none	none	None	None	None
Calendar Year or Policy Year?	UCR	UCR	UCR	UCR	UCR	Fee Schedule	Prime (MAC)	Fee Schedule
Individual/Family Annual Maximum	Policy year none \$2000	Policy year none \$2000	Policy year none \$2000	Policy year none \$2000	Policy year none \$2000	Calendar year \$250/\$75 \$2000	Calendar year \$250/\$75 \$2000	Calendar year \$50/\$150 \$2000
Diagnostic & Preventive	\$10 copay	\$10 copay	\$10 copay	\$10 copay	\$10 copay	Covered in full	Covered in full	Covered in full
Exams	See exams	See exams	See exams	See exams	See exams	Covered in full	Covered in full	Covered in full
Cleanings	See exams	See exams	See exams	See exams	See exams	Covered in full	Covered in full	Covered in full
X-Rays	See exams	See exams	See exams	See exams	See exams	Covered in full	Covered in full	Covered in full
Sealants	See exams	See exams	See exams	See exams	See exams	Covered in full	Covered in full	Covered in full
Major Restorative Services	See exams	See exams	See exams	See exams	See exams	Ded. 80/20	Ded. 80/20	Ded. 80/20
Emergency Pain Treatment	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Fillings, Stainless Crowns	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Endodontics (Root Canal)	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Periodontics (Gum Disease)	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Simple Extractions	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Major Services	Not covered	Not covered	Not covered	Not covered	Not covered	Not covered	Not covered	Not covered
Implants	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 50/50	Ded. 50/50	Ded. 50/50
Crowns, Inlays, Outlays	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 50/50	Ded. 50/50	Ded. 50/50
Bridges and Dentures	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 50/50	Ded. 50/50	Ded. 50/50
Repairs and Adjustments	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 50/50	Ded. 50/50	Ded. 50/50
Endodontics (Root Canal)	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Periodontics (Gum Disease)	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Endodontics	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20	Ded. 80/20
Lifetime Maximum	\$1000	\$1000	\$1000	\$1000	\$1000	\$1,000	\$1,000	\$1,000
Age Limitation	19	19	19	19	19	19	19	19

\*Dependent Coverage to age 26

\*Dependent Coverage to age 23 for fulltime student

RESOLUTION NO.     , 2017

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
FEDERAL LOCAL LET PROJECT AGREEMENT WITH THE OHIO DEPARTMENT  
OF TRANSPORTATION FOR THE PROJECT KNOWN AS THE  
HAM-SR 126/US 22-20.00/13.19 MONTGOMERY ROAD  
MULTI-LANE ROUNDABOUT PROJECT, PID NO. 104936**

**WHEREAS**, the City of Montgomery and the Ohio Department of Transportation desire to enter into a Federal Local Let Project Agreement which will delineate responsibility for the funding and the administration of the HAM-SR 126/US 22-20.00/13.19, PID 104933, Montgomery Road Multi-Lane Roundabout Project, PID 104936.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Ohio:

**SECTION 1.** On behalf of the City of Montgomery, the City Manager is hereby authorized to enter into a Federal Local Let Project Agreement for the funding and the administration of the HAM-SR 126/US 22-20.00/13.19, PID 104936, Montgomery Road Multi-Lane Roundabout Project with the Ohio Department of Transportation.

**SECTION 2.** It is hereby found and determined that all formal actions of the City Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this City Council, and that any and all deliberations of this City Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all Ohio legal requirements.

**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

**HAM-SR 126/US 22-20.00/13.19**  
COUNTY-ROUTE-SECTION

**104936**

PID NUMBER

**30989**

AGREEMENT NUMBER

DUNS NUMBER

Rev. 6/21/2016

**CFDA 20.205**

## **LPA FEDERAL LOCAL-LET PROJECT AGREEMENT**

**THIS AGREEMENT** is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the **City of Montgomery**, hereinafter referred to as the LPA, **10101 Montgomery Road, Montgomery, OH 45242**.

### 1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The **construction of a multi-lane roundabout to replace the existing interchange of SR-126 and Montgomery Road (US-22/SR-3)** (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

### 2. LEGAL REFERENCES

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:
  - a. Section 5501.03(D) of the ORC;
  - b. ODOT Locally Administered Transportation Projects, Manual of Procedures;
  - c. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105;
  - d. State of Ohio Department of Transportation Construction and Material Specifications Manual (applicable to dates of PROJECT);
  - e. 2 CFR Part 200; and
  - f. Federal Funding Accountability and Transparency Act (FFATA)

- 2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

### 3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be **\$8,571,429** as set forth in Attachment 1. ODOT shall provide to the LPA **70 percent** of the eligible costs, up to a maximum of **\$6,000,000** in Federal funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.
- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, cost overruns and contractor claims.

### 4. PROJECT DEVELOPMENT AND DESIGN

- 4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.
- 4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.
- 4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA shall make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication). Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D Manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates: [www.dot.state.oh.us/drrc/Pages/default.aspx](http://www.dot.state.oh.us/drrc/Pages/default.aspx)
- 4.4 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the PROJECT Design Engineer and serve as the LPA's principal representative for attending to PROJECT responsibilities, or engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC sections 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: [www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT](http://www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT)
- 4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

### 5. ENVIRONMENTAL RESPONSIBILITIES

- 5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance

responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act; and for securing all necessary permits.

- 5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at [www.dot.state.oh.us/CONTRACT](http://www.dot.state.oh.us/CONTRACT). If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 5.3 ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- 5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the project.
- 5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- 5.6 The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

#### 6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

- 6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.
- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to

perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that, if any property acquired for this project is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this project that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.
7. ADVERTISING, SALE AND AWARD
- 7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials.

ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.

- 7.4 The LPA must incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.
- 7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.
- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII and 23 CFR 635.116, the "prime" contractor must perform no less than 30 percent of the total original contract price. The 30-percent prime requirement does not apply to design-build contracts.
- 7.7 In accordance with ORC Section 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100 percent locally-funded work product within this agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100 percent locally-funded work product.
- 7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC Section 9.24, that the contractor has taken the appropriate remedial steps required under ORC Section 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at <https://ohioauditor.gov/findings.html> . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.
- 7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.
- 7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this agreement, if applicable.

## 8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this agreement.
- 8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the project. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the project comply with ODOT's Construction and Material Specifications and meet the requirements of Appendix J in the LATP Manual of Procedures.
- 8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA requests reimbursement, it must provide documentation of payment for the PROJECT costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.
- 8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA. When the LPA is requesting a direct payment to its Contractor, the LPA must provide documentation that the LPA has paid its share of the PROJECT costs.
- 8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the ORC may result in the

termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.

- 8.7 Payment or reimbursement to the LPA shall be submitted to:

**Wayne Davis, City Manager  
City of Montgomery  
10101 Montgomery Road  
Montgomery, OH 45242**

- 8.8 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.
- 8.9 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.
- 8.10 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.
- 8.11 After completion of the PROJECT, and in accordance with Title 23 United States Code 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any Federally-funded programs.
- 8.12 The LPA must provide the final invoices, and final report (Appendix P) along with all necessary closeout documentation within 6 months of the physical completion date of the project. All costs must be submitted within 6 months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the 6 month period may result in closeout of the project and loss of eligibility of any remaining Federal and or State funds.
9. CERTIFICATION AND RECAPTURE OF FUNDS
- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to

the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.
- 10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this project for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the **ORC**.

ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. Prior to executing the contract with the contractor, and in order for ODOT to encumber the Federal/State funds, the contractor must demonstrate compliance with the DBE Utilization Plan and Good Faith Efforts requirements.

## **GOOD FAITH EFFORTS (GFEs)**

In the event that the DBE contract goal established by ODOT is not met on a project, the Contractor shall demonstrate that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

The Contractor shall demonstrate its GFEs by submitting information including but not limited to the following to the LPA:

- (1) All written quotes received from certified DBE firms;
- (2) All written (including email) communications between the Contractor and DBE firms;
- (3) All written solicitations to DBE firms, even if unsuccessful;
- (4) Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract;
- (5) Phone logs of communications with DBE firms.

The LPA will send the GFE documentation including their recommendation to ODOT at the following address:

Office of Small & Disadvantaged Business Enterprise  
 The Ohio Department of Transportation  
 1980 West Broad Street, Mail Stop 3270  
 Columbus, Ohio 43223

ODOT shall utilize the guidance set forth in 49 CFR §26.53 Appendix A in determining whether the Contractor has made adequate good faith efforts to meet the goal. ODOT will review the GFE documentation and the LPA's recommendation and issue a written determination on whether adequate GFEs have been demonstrated by the Contractor.

The Contractor may request administrative reconsideration within two (2) days of being informed that it did not perform a GFE. The Contractor must make this request in writing to the following official:

Ohio Department of Transportation  
 Division of Chief Legal Counsel  
 1980 West Broad Street, Mail Stop 1500  
 Columbus, Ohio 43223

The reconsideration official will not have played any role in the original determination that the Contractor did not document sufficient good faith effort.

As part of this reconsideration, the Contractor will have the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT will send the Contractor a written decision on reconsideration explaining the basis for finding that the Contractor did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process is not administratively appealable.

ODOT may issue sanctions if the Contractor fails to comply with the contract requirements and/or fails to demonstrate the necessary good faith effort. ODOT may impose any of the following sanctions:

- (a) letter of reprimand;
- (b) contract termination; and/or

- (c) other remedies available by law including administrative suspension.

Factors to be considered in issuing sanctions include, but are not limited to:

- (a) the magnitude and the type of offense;
- (b) the degree of the Consultant's culpability;
- (c) any steps taken to rectify the situation;
- (d) the Contractor's record of performance on other projects including, but not limited to:
  - (1) annual DBE participation over DBE goals;
  - (2) annual DBE participation on projects without goals;
  - (3) number of complaints ODOT has received from DBEs regarding the Contractor; and,
  - (4) the number of times the Contractor has been previously sanctioned by ODOT; and,
- (e) Whether the Contractor falsified, misrepresented, or withheld information.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest") agrees as follows:

(1) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(2) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(3) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

(4) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books,

records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the LPA under the contract until the LPA complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

#### 11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

- 11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.
- 11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.
- 11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

#### 12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.
- 12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.
- 12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.
13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS
- 13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.
- 13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

**Wayne Davis**  
**City Manager**  
**10101 Montgomery Road**  
**Montgomery, OH 45242**

If to ODOT:

**Tammy K. Campbell, P.E.**  
**District 8 Deputy Director**  
**505 South State Route 741**  
**Lebanon, OH 45036**

15. GENERAL PROVISIONS

15.1 Recovery of Direct Labor, Overhead, and/or Fringe Costs:

To be eligible to recover any costs associated with the LPA's internal labor forces used on this project, the LPA shall make an appropriate selection below:<sup>1</sup>

1. Direct Labor only (no indirect cost recovery for fringe benefit or overhead costs)
2. Direct Labor plus indirect costs determined using the Federal De Minimis Indirect Cost Rate<sup>2</sup>
3. Direct Labor plus Approved Fringe Benefit Costs (fringe benefits only)<sup>3</sup>
4. Direct Labor plus indirect costs determined using the approved applicable Cost Allocation Plan rate<sup>4</sup>
5. No cost recovery of any LPA direct labor, fringe benefits, or overhead costs.

For any labor costs to be eligible for reimbursement with Federal and State funds, the LPA shall meet all timekeeping requirements outlined in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance, including ODOT Questions and Answers<sup>5</sup> and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall follow 2 CFR Part 200 and the LATP Manual of Procedures.

15.2 Financial Reporting and Audit Requirements: The LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200.

The LPA must submit performance reports at the interval required by the Federal awarding agency and pass-through entity. Annual reports must be due 90 calendar days after the reporting period; quarterly and semi-annual reports must be due 30 calendar days after the reporting period.

<sup>1</sup> **Note:** If a timely election is not made at the time of contract execution, the cost recovery method will default to Option 5: No cost recovery of any LPA direct labor, fringe benefits, or overhead costs.

<sup>2</sup> The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. Regardless of whether the LPA prepares a CAP or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs and associated indirect costs only if such costs are accumulated, tracked, and allocated in accordance with such systems. Before an LPA is eligible to elect the de minimis rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. To obtain this approval, LPAs will be required to complete an Internal Control Questionnaire (ICQ), and LPAs with compliant time-tracking systems will be granted approval (be prequalified) to apply the de minimis rate.

<sup>3</sup> Annually, the LPA shall submit an updated rate for review and approval by the ODOT Office of External Audits.

<sup>4</sup> Annually, the LPA shall submit an updated rate for review and approval by the ODOT Office of External Audits.

<sup>5</sup> Question and Answer guidance can be found at the following web address:

[http://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/Locallet%20Manual/LPA%20Questions%20and%20Answers%20Re%202%20CFR%20200%20\(latest\)%20\(2\).pdf](http://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/Locallet%20Manual/LPA%20Questions%20and%20Answers%20Re%202%20CFR%20200%20(latest)%20(2).pdf)

Alternatively, ODOT may require annual reports before the anniversary dates of multiple year Federal awards.<sup>6</sup>

LPAs that expend \$750,000 or more in the LPA's fiscal year in Federal awards must have a Single Audit, or program-specific audit, conducted for that year in accordance with 2 CFR §200.501.

Federal and State funds expended to or on behalf of a subrecipient must be recorded by the subrecipient (LPA). The LPA is responsible for tracking these payments throughout the life of the project in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as *Schedule*) is provided for 20.205 funding. The LPA must identify each ODOT PID and/or Project and the corresponding expenditures on its Schedule separately. LPAs are responsible for ensuring funds related to this PROJECT are reported when the activity related to the Federal award occurs.<sup>7</sup> The LPA is required to report its own expenditures, in addition to any expenditures made by ODOT for the project in the applicable Schedule when the expenditure was made. When a Schedule is not accurately reported for the project, the LPA will be required to make corrections to past, current, and possibly future Schedules and Audit Reports to ensure Federal funds are accurately reported in the correct fiscal year matching the project expenditure. The LPA is required to report all Federal funds received, or expended on its behalf, regardless to differences in the LPA expenditure date and ODOT reimbursement date.

- 15.3 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

- 15.4 *Ohio Ethics Laws:* LPA agrees that it they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.
- 15.5 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.6 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA

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<sup>6</sup> See 2 CFR §200.328.

<sup>7</sup> Per 2 CFR §200.502

hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

- 15.7 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.8 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.9 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.10 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

**LPA: CITY OF MONTGOMERY**

**STATE OF OHIO  
DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
Wayne Davis  
Title: City Manager

By: \_\_\_\_\_  
Jerry Wray  
Director

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

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

Attachment 1

**PROJECT BUDGET – SOURCES AND USES OF FUNDS**

USES	LPA FUNDS			FHWA FUNDS			STATE FUNDS			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT		100			0					
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS		100			0					
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION		100			0					
PROJECT CONSTRUCTION COSTS	\$2,571,429	30	LNTP	\$6,000,000	70	4TA7 / KIo8				\$8,571,429
INSPECTION		100			0					
<b>TOTALS</b>	<b>\$2,571,429</b>			<b>\$6,000,000</b>						<b>\$8,571,429</b>

**HAM-SR 126/US 22-20.00/13.19**

COUNTY-ROUTE-SECTION

**104936**

PID NUMBER

**30989**

AGREEMENT NUMBER

DUNS NUMBER

**Attachment 2**

**DIRECT PAYMENT OF CONTRACTOR**

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's contractor shall be paid directly to the contractor in the pro-rata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this agreement, and shall indicate that the payment is to be made to the contractor. In addition, the invoice must state the contractor's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the contractor and those that are to be made to the LPA.

When ODOT uses Federal funds to make payment to the contractor, all such payments are considered to be expenditures of Federal funds received and also expended by the LPA (sub-recipient). Accordingly, the LPA is responsible for tracking the receipts and payments and reporting the payments Federal (Receipts) Expenditures on the Schedule of Expenditures of Federal Awards (SEFA). An LPA that fails to report these funds accurately and timely may be required to restate the SEFA to comply with Federal reporting requirements.

We \_\_\_\_\_ request that all payments for the Federal/State share of the construction costs of this agreement performed by \_\_\_\_\_ be paid directly to \_\_\_\_\_.

Contractor Name:  
Oaks Vendor ID:  
Mailing Address:

\_\_\_\_\_  
LPA signature

LPA Name:  
Oaks Vendor ID:  
Mailing Address:

\_\_\_\_\_  
Approved, ODOT signature

RESOLUTION NO. , 2017

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
FEDERAL LOCAL LET PROJECT AGREEMENT WITH THE OHIO DEPARTMENT  
OF TRANSPORTATION FOR THE PROJECT KNOWN AS THE  
HAM-US 22-14.74 MONTGOMERY ROAD PHASE II  
SIDEWALK PROJECT, PID NO. 104934**

**WHEREAS**, the City of Montgomery and the Ohio Department of Transportation desire to enter into a Federal Local Let Project Agreement which will delineate responsibility for the funding and the administration of the HAM-US 22-14.74, PID 104934, Montgomery Road Phase II Sidewalk Project.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Ohio:

**SECTION 1.** On behalf of the City of Montgomery, the City Manager is hereby authorized to enter into a Federal Local Let Project Agreement for the funding and the administration of the HAM-US 22-14.74, PID 104934, Montgomery Road Phase II Sidewalk Project with the Ohio Department of Transportation.

**SECTION 2.** It is hereby found and determined that all formal actions of the City Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this City Council, and that any and all deliberations of this City Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all Ohio legal requirements.

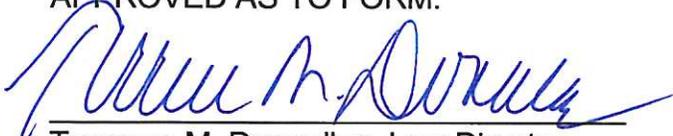
**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

RESOLUTION NO.           , 2017

**A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY AND THE HAMILTON COUNTY TRANSPORTATION  
IMPROVEMENT DISTRICT**

**WHEREAS**, the Hamilton County Transportation Improvement District (“HCTID”) is a Transportation Improvement District created by R.C. Chapter 5540; and

**WHEREAS**, HCTID is authorized by R.C. Chapter 5540 to finance and to construct improvements to public roadways; and

**WHEREAS**, the City has applied to the HCTID to assist in funding engineering design work for the Montgomery Road/Ronald Reagan Interchange Improvement Project; and

**WHEREAS**, the City has been approved for a grant for engineering support by the HCTID for fiscal year 2017/2018 in the amount of \$250,000; and

**WHEREAS**, state law requires that there be an Intergovernmental Agreement between the City and HCTID as a condition for funding, which Intergovernmental Agreement acknowledges that the City and HCTID will cooperate to co-administer and co-manage the Project; and

**WHEREAS**, HCTID has asked that the Council authorize this Agreement to be executed by the City Manager to enable HCTID to provide the appropriate HB 26 funding for fiscal year 2017/2018.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The City Manager is hereby authorized to execute the attached Intergovernmental Agreement 2017-01 by and between the City and the Hamilton County Transportation Improvement District to co-administer and co-manage the Montgomery Road/Ronald Reagan Interchange Improvements Project. It is understood and agreed that by executing this Intergovernmental Agreement, the City will be eligible for HCTID HB 26 funding up to the amount of \$250,000 as reimbursement for engineering and design work for the Project during fiscal year 2017/2018.

**SECTION 2.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

**INTERGOVERNMENTAL  
AGREEMENT  
2017-01**

By and Between

CITY OF MONTGOMERY, OHIO

And

THE HAMILTON COUNTY TRANSPORTATION  
IMPROVEMENT DISTRICT

[Project Design Work Phase]

Dated as of July 31, 2017

## **INTERGOVERNMENTAL AGREEMENT 2017-01**

This Intergovernmental Agreement 2017-01 (this "Agreement") is made and entered into effective as of July 31, 2017 (the "Effective Date"), by and between the CITY OF MONTGOMERY, a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio, and its Charter (the "CITY"), acting through its Council (the "Council"), and the HAMILTON COUNTY TRANSPORTATION IMPROVEMENT DISTRICT, a transportation improvement district created pursuant to ORC Chapter 5540 (the "HCTID").

### **Recitals:**

A. The HCTID is authorized by ORC Chapter 5540 (1) to finance, construct, maintain, repair, and operate street, highway, and other transportation projects (including, but not limited to, air and rail projects) and (2) to construct, reconstruct, improve, alter, and repair roads, highways, public places, buildings, and other infrastructure.

B. These projects, as contemplated by ORC Chapter 5540, include major transportation and infrastructure improvement projects that involve a coordinated, cooperative, multi-jurisdictional approach towards project integration, development, design and construction, land use planning, environmental stewardship, financial strategy implementation, economic development and public-private partnership opportunities to advance the projects in an innovative, efficient and cost effective manner.

C. These projects undertaken by the HCTID, pursuant to ORC Chapter 5540, are essential governmental functions and will contribute to the improvement of the prosperity, health, safety, and welfare of the people of Hamilton County, Ohio (the "County"), and various political subdivisions therein, including, but not limited to, the CITY, and of the State of Ohio (the "State") and are essential governmental functions;

D. The exercise by the HCTID of the authority granted by ORC Chapter 5540 is necessary for the prosperity, health, safety, and welfare of the County, the CITY and the State and their people and is consistent with and will promote industry, commerce, distribution, and research activity in the County, and certain political subdivisions therein, including, but not limited to, the CITY, and the State.

E. The HCTID is continually striving to further develop, revisit and refine its efforts, goals and functions, as it continues to serve as an active force to support, facilitate and effectuate transportation improvements, initiatives and policy, coordinated and integrated with economic development efforts, through a collaborative effort on behalf of the County and other local jurisdictions within the County, including, but not limited to, the CITY, and, as appropriate, in coordination and collaboration with the Ohio Kentucky Indiana Council of Governments or "OKI" (hereinafter defined), the State of Ohio/Ohio Department Of Transportation or "ODOT" (hereinafter defined), the Ohio Public Works Commission or "OPWC" (as hereinafter defined), federal agencies and the congressional delegation.

F. In this regard, the HCTID and the CITY intend to coordinate and collaborate, as appropriate, relating to certain transportation and infrastructure project development,

implementation and funding, involving a joint project between the HCTID and the CITY respectively referred to or known as: the *Montgomery Road/Ronald Regan Interchange Improvements Project*, designed to improve and reconstruct certain portions of Montgomery Road located within the CITY, including, but not limited to, improvements to the existing interchange between the Ronald Reagan Highway (SR 126) and Montgomery Road (US 22/SR 3), as further set forth and described, and as further designed, on project plans and documents on file with the CITY, the HCTID, and ODOT Office of Jobs & Commerce, OKI (referred to hereafter as the "Project" and as hereinafter defined), and which Project furthers transportation improvements and community and economic development objectives supported by the HCTID and the CITY.

G. The CITY, as the Local Public Agency or "LPA" (hereinafter defined), and the HCTID, in collaboration with ODOT, are advancing the Project in phases, as required, appropriate and feasible, as funding sources and uses for Project Costs are further developed, determined and secured. The total Project Costs are currently estimated to be in an amount of \$10,024,700.00, with secured and targeted funding for Project Costs as set forth and described in Exhibit A "*Project Costs Funding Summary*," attached hereto and made part hereof.

H The current phase of the Project includes certain detail design work, including geotechnical, surveying, environmental and other engineering work (referred to as the "Design Work," as hereinafter defined). The HCTID successfully submitted a funding application to ODOT, in coordination with the CITY, securing partial funding of a portion of the Design Work through an ODOT Jobs & Commerce HB 26 TID grant. Per the terms of this Agreement and the related HCTID HB26 Funding agreement between the HCTID and ODOT, the HCTID intends to make available the HCTID HB 26 Funding, as part of this joint project, to assist in advancing and funding a portion of the Design Work and, more specifically, to provide funding to the CITY, in a total amount not to exceed \$250,000.00, for reimbursement of eligible costs the CITY advances for the Design Work performed under the professional services agreement with the selected professional engineering firm of Strand Associates (the "Consultant"), selected by the CITY in coordination with ODOT. As for securing the total Project Costs, including any local cost share match, ultimately required for the Project Work, that will be the primary and sole responsibility of the CITY but the HCTID will provide this allocation of HCTID HB26 Funding, through and in coordination with ODOT Office of Jobs & Commerce, on a reimbursement basis and as further provided for herein.

I. The CITY and HCTID, in coordination and collaboration with the Hamilton County Engineer's Office or "HCEO," (hereinafter defined) will jointly administer the Design Work, and share joint project management responsibilities as well as the related oversight and review relating to the Project Work.

J. The HCTID is specifically authorized by ORC § 5540.03(A)(10) to receive and accept loans and grants for or in aid of the construction, maintenance, or repair of any Project from the federal or any state or local government; and the CITY is specifically authorized by ORC § 5540.02(F) to make appropriations from moneys available to the CITY and not otherwise appropriated to pay costs incurred by the HCTID in the exercise of its functions under ORC Chapter 5540.;

NOW, THEREFORE, in consideration of the promises and the mutual representations and agreements in this Agreement, the CITY and the HCTID acknowledge and agree, with the foregoing Recitals incorporated herein by reference and expressly made a binding and integral part of this Agreement, as follows:

*Article I Definitions; Construction*

**Section 1.01. Definitions.** As used in this Agreement, the following terms shall have the following meanings, unless the context or use clearly indicates another meaning or intent:

*"Agreement"* means this Intergovernmental Agreement, as the same may be amended from time to time.

*"Business Day"* means any day other than a Saturday, Sunday, or legal holiday.

*"CITY"* means the City of Montgomery, an Ohio municipal corporation, located in the County.

*"CITY Pledged Amount"* means the CITY's funding commitment to advance the required and appropriate costs required and incurred for Design Work performed by the Consultant, in a total amount of \$250,000.00, to be paid from its available revenue sources, for advancing and completing the Design Work as a phase of the overall Project Work, with eligible Design Work costs and expenses to be reimbursed from the HCTID HB26 Funding. The CITY acknowledges and agrees that it will be responsible for procuring any additional funding for the Project Costs, such as for Project local cost share match to access the STP funding or otherwise, as required to advance the Project Work up to and through construction, subject to appropriate or required actions by Council and in its role as the LPA for the Project.

*"Consultant"* means the professional engineering firm of Strand Associates, selected by the City in coordination with ODOT, to perform the Design Work, per the professional services agreement with the CITY, which is subject to and in compliance with all applicable contract terms and conditions and regulations as required by ODOT within the LPA program for federally funded projects, a copy of which professional services agreement is on file with the CITY, and that is being administered jointly with the HCTID as further set forth herein.

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

*"County"* means the County of Hamilton, a county and political subdivision of the State.

*"Day"* means a calendar day, unless specifically designated as a Business Day.

*"Design Work"* means the, geotechnical, surveying, environmental and other engineering work being performed by the Consultant, Strand Associates, selected by the CITY in coordination with ODOT and being performed per the professional services agreement with the CITY, which is subject to and in compliance with all applicable contract terms

with the CITY, which is subject to and in compliance with all applicable contract terms and conditions and regulations as required by ODOT within the LPA program for federally funded projects, a copy of which professional services agreement is on file with the CITY, and that is being administered jointly with the HCTID as further set forth herein.

“*Effective Date*” has the meaning given to such term in the introductory paragraph of this Agreement.

“*HB26 Funding Agreement*” means the agreement between ODOT and the HCTID, specifically in relation to the HCTID HB 26 Funding award procured by the HCTID and administered through the ODOT Office of Jobs and Commerce, and attached hereto as *Exhibit B* and made part hereof.

“*HCEO*” means the Hamilton County Engineer’s Office.

“*HCTID*” means The Hamilton County Transportation Improvement District.

“*HCTID HB 26 Funding*” means grant funding specifically allocated, as of July 2017, to the HCTID by ODOT, in the amount of \$250,000.00 for eligible Project Costs, to wit: the Design Work, and for use, on a reimbursement basis, in State Fiscal Year 2018 per the funding agreement between the HCTID and ODOT, on file with the HCTID and ODOT.

“*LPA*” means “Local Public Agency,” as that term is defined and applied with respect to the ODOT LPA Program for Federal Local-let projects, and the CITY is to act as the designated LPA for the Project, pursuant to the ODOT LPA program and per an LPA agreement and related LPA documents to be authorized by legislative act of the CITY and entered into by the CITY with ODOT.

“*ODOT*” means the Ohio Department of Transportation, an agency of the State and including its Office of Jobs and Commerce, specifically in relation to the HCTID HB 26 Funding.

“*OKI*” means the Ohio Kentucky Indiana Regional Council of Governments, the designated Metropolitan Planning Organization (MPO) responsible for transportation planning in the eight-county (Butler, Clermont, Hamilton, Warren, Boone, Campbell, Kenton, and Dearborn) three-state (Ohio, Kentucky, Indiana) region.

“*OPWC*” means the Ohio Public Works Commission an instrumentality of the State of Ohio that provides financing for local public infrastructure projects, such as the Project, through both the State Capital Improvement Program (SCIP) and the Local transportation Improvement Program (LTIP).

“*ORC*” means the Ohio Revised Code, as the same may be amended from time to time.

“*Party*” means, individually, either the CITY or the HCTID; and “*Parties*” means, collectively, the CITY and the HCTID.

*“Project” or “Projects”* means any street, highway, or other transportation projects and any project for the construction, reconstruction, improvement, alteration, or repair of any roads, highways, public places, buildings, or other infrastructure constructed or improved under this chapter, and includes all bridges, tunnels, overpasses, underpasses, interchanges, approaches, those portions of connecting streets or highways that serve interchanges and are determined by the HCTID to be necessary for the safe merging of traffic between the project and those streets or highways, service facilities, and administration, storage, and other buildings, property, and facilities, that the HCTID considers necessary for the operation of the project, together with all property and rights that must be acquired by the HCTID for the construction, maintenance, or operation of the projects as from time to time are undertaken by the HCTID pursuant to the authority granted by ORC Chapter 5540 and duly designated by a resolution of its Trustees, and includes the *“Montgomery Road/Ronald Regan Interchange Improvements Project,”* which has the meaning given to such term in Recital F. and as further described and set forth in project documents on file with the CITY, the HCTID, and ODOT Office of Jobs & Commerce and the authorized Project Work herein and as set forth and described in Exhibit A *“Project Costs Funding Summary.”*

*“Project Costs”* means for purposes of this Agreement the costs required to complete the Project Work, including, but not limited to, the Design Work, as agreed upon here by the Parties to currently advance the Project, and further the cost of the Design Work is payable in part from the HCTID HB 26 Funding allocation in an amount not to exceed \$250,000.00 and as further discussed herein.

*“Project Cost Item” or “Project Cost Items”* means the activities, services and/or work items performed by the Consultant to complete the Design Work and for which costs are incurred and approved by the CITY and the HCTID, to be paid for by the CITY Pledged Amount and HB 26 Funding facilitated by the HCTID, as further set forth herein, or other eligible costs for Project Work as agreed to by the Parties and ODOT.

*“Project Funding”* means sources of funding for paying the required costs to complete the Project, including but not limited to the CITY Pledged Amount, and any other funding pledged, acquired or debt incurred by the CITY and/or the HCTID, including, but not limited to, the surface transportation program (or “STP”) funding awarded to the CITY through OKI; OPWC grant funding to be applied for by the CITY; or, the HCTID HB 26 Funding or other funding that may become available through the HCTID, to finance the Project Work, including the Design Work, as may otherwise be agreed upon and authorized by the Parties, and the related Project Cost.

*“Project Work”* means the Project activities, services, acquisition and/or work items for completing the Project, through construction, including, but not limited to, the Design Work.

*“State”* means the State of Ohio.

*“STP Funding”* means the federal Surface Transportation Program (STP) funding, applied for by the CITY through OKI, in the amount of \$6,000,000.00, to be applied for a

portion of the Project Costs, specifically as required for construction, and subject to local match cost share requirements to be provided for by the CITY.

“*Term*” has the meaning given to such term in Section 4.01.

“*Trustees*” means the Board of Trustees of the HCTID.

***Section 1.02. Exhibits.***

(a) The following Exhibits are attached to and made a part of this Agreement:

*Exhibit A “Project Costs Funding Summary”*

*Exhibit B “HB26 Funding Agreement”*

Exhibit A (including the amounts of the sources and uses of secured and target funding for Project Costs, as set forth therein) or Exhibit B (including ODOT’s current version, for FY18, of its *HB26 Funding Agreement* that it requires TID grant recipients to enter into in the form attached) may be amended from time to time by mutual agreement, evidenced by all Parties signing appropriate new Exhibits and substituting the same for the prior versions of those Exhibits. Such changes shall be effective as of the date designated in the replacement Exhibit; and all other terms and provisions of this Agreement shall remain in full force and effect.

***Section 1.03. References to Parties.*** Any reference in this Agreement to the CITY or Council, the Trustees or the HCTID, or to any officers of the CITY or the HCTID, includes those entities or officials succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

***Section 1.04. Statutory References.*** Any reference in this Agreement to a section or provision of the Constitution of the State, or to a section, provision, or chapter of the ORC shall include such section, provision, or chapter as modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this Section if it constitutes in any way an impairment of the rights or obligations of the CITY or the HCTID under this Agreement.

***Section 1.05. Adverbs; Other References.*** Unless the context indicates otherwise, the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” and similar terms used in this Agreement refer to this Agreement; and, unless otherwise indicated, references in this Agreement to articles, sections, subsections, clauses, exhibits, or appendices are references to articles, sections, subsections, clauses, exhibits, or appendices of this Agreement.

***Section 1.06. Number and Gender.*** All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number (singular or plural) and any other gender (masculine, feminine, or neuter) as the context or sense of this Agreement or any article, section, subsection, or clause herein may require, the same as if such words had been fully and properly written in the appropriate number and gender.

**Section 1.07. Captions.** The captions or headings at the beginning of each article and section of this Agreement are merely guides or labels for the convenience of the Parties to assist in identifying those articles and sections, are not intended to be a part of the context of this Agreement, and shall not be deemed to modify, to explain, to enlarge, or to restrict any of the provisions hereof

**Section 1.08. Ambiguity.** The Parties have participated jointly in the negotiation and drafting of this Agreement. Should any ambiguity or question of intent or interpretation arise with respect to any provision of this Agreement, including any exhibit hereto, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement.

**Section 1.09. Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law; but, if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

## **Article II Scope of Agreement**

**Section 2.01. Cooperation and Consent.** The HCTID and the CITY have acknowledged and agreed that it is essential to the welfare of the people of the County and the CITY, that the Parties cooperate to the greatest extent practical in the funding and advancement of the development of the Project which will contribute to the improvement of the prosperity, health, safety, and welfare of all of the people of the County and the CITY.

**Section 2.02. General Agreement Regarding Funding.** The Parties acknowledge and agree as follows:

- (a) The CITY and the HCTID explicitly acknowledge and agree:
  - i) to act as co-administrators and managers of the Project, including overseeing the Consultant and the performance of the Design Work, in accordance with applicable law and related requirements, and to perform all related responsibilities as thereby required or appropriate, in coordination and collaboration with the HCTID, HCEO and, as appropriate, ODOT and as provided for herein.
  - ii) to take such action and provide the necessary funding, including the CITY Pledged Amount and HCTID HB 26 Funding, and as otherwise agreed upon by the Parties, to facilitate, fulfill and deliver the Project Work, as committed herein.

- iii) to arrange, in coordination and cooperation with the HCEO, for a schedule of Project work sessions to, to be held on a bi-weekly basis or as the Parties otherwise determine is appropriate and necessary, so as to coordinate and review the progress of the Project Work and related Project issues by and among the HCTID and the CITY, and any other parties the CITY and the HCTID deem appropriate, and with the attendance of the Consultant as appropriate. The HCTID, with assistance of the HCEO, shall provide input and advice regarding the Consultant's work. The CITY and the HCTID shall, at such appropriate times, conduct concurrent reviews of any Consultant invoices to be submitted for reimbursement from the HCTID HB 26 Funding, through its designated Project representatives. The Parties acknowledge and agree that any modifications that they may request or believe appropriate to the Design Work, requiring additional funding and work by the Consultant, and thus related changes to the Consultant agreement with the CITY, shall be approved and authorized, in writing, by the CITY, ODOT, as appropriate, and the HCTID prior to any such changes or additional work or cost under the Consultant agreement and authorization for the Consultant to proceed. The CITY explicitly acknowledges and agrees that its professional services agreement with the Consultant complies with or will be modified to comply with the "Section 7. Federal Requirements" set forth in Exhibit B "*HB 26 Funding Agreement*" attached hereto or thereby represent and warrant to the HCTID that the same, equivalent provisions containing these "Federal Requirements" are currently contained in the current form of its professional services agreement with the Consultant, as already required by ODOT per the CITY's continuing role as the LPA.
- (b) The CITY explicitly agrees to provide to the HCTID, in a timely fashion, but not more than 30 days from date of payment following review under 2.02 (a), paid invoices for Consultant services provided to the CITY for Design Work and proof of payment by the CITY of such invoices. In the event the HCTID does not receive sufficient information from the CITY to seek HCTID HB 26 Funding reimbursement from ODOT, the HCTID will notify the CITY in writing, by both facsimile transmission and via electronic mail, that it has not received the requisite information and the CITY will provide such information as reasonably required within 7 business days, so as to facilitate and not unduly delay the reimbursement payment process.
- (c) The HCTID explicitly agrees to provide the CITY with the HCTID HB 26 Funding specifically allocated to and as received by the HCTID from ODOT for reimbursement of approved and eligible costs incurred in performance of the Design Work, in a total amount not to exceed \$250,000.00, pursuant to and in accordance with the HB 26 Funding Agreement and as such funding is received by the HCTID in the form of reimbursement payments from ODOT. The HCTID shall direct said payments to such account as instructed, in writing, by the CITY. The CITY shall provide the HCTID with such instructions within 15 business days of the execution of this Agreement.

- (d) The CITY and the Council explicitly acknowledge and agree:
  - i) to act as co-administrators and managers of the Project with the HCTID, including overseeing the Consultant and the performance of the Design Work, in accordance with applicable law and related requirements, and to perform all related responsibilities as thereby required or appropriate, in coordination and collaboration with the HCTID, HCEO and, as appropriate, ODOT and as provided for herein.
  - ii) to take such action and provide the necessary funding, including the CITY Pledged Amount or as otherwise agreed upon by the Parties, to facilitate, fulfill and deliver the Project Work, as committed herein.
- (e) The provisions of this Agreement may not be altered or amended without the express written consent of all of the parties hereto.

**Section 2.03. Additional Agreements of the HCTID.** As long as this Agreement remains in effect, the HCTID may contribute, as approved and authorized, the following:

- (a) such additional funds as the Parties may mutually agree, at any time and from time to time, shall be necessary and appropriate to the planning, coordination, implementation and construction of the Project; and
- (b) such services of or obtained through the HCTID as the Parties may mutually agree, at any time and from time to time, shall be necessary for the planning, development, coordination, implementation and/or construction of the Project.

**Section 2.04. Additional Agreements of the CITY.** As long as this Agreement remains in effect, the CITY may contribute, as approved and authorized, to the HCTID the following:

- (a) such loans, contributions and grants as the Parties may mutually agree, at any time and from time to time, shall be necessary for or in aid of the planning, development, design, construction, maintenance, and/or repair of the Project; and
- (b) such other aid or contributions of money, property, labor, or other things of value as the Parties may mutually agree, at any time and from time to time; *provided, however,* that any such loans, grants, and contributions from the CITY shall be held, used, and applied by the HCTID only for the purposes for which such loans, grants, and contributions are made.

**Section 2.05. Relationship of the Parties.**

- (a) Neither this Agreement nor the relationship among the Parties established pursuant to this Agreement shall constitute or be deemed to be that of a partnership, joint venture, employment, master and servant, or principal and agent. Neither Party shall have any authority to make, and neither Party shall

make, any representations, warranties, or statements on behalf of the other Party, and neither Party shall bind, or be liable for the debts or obligations of, the other Party. In the performance of its services hereunder, the CITY or the HCTID is and shall at all times be an independent Consultant, free and clear of any dominion or control by the other Party, except as specifically provided herein. Each Party shall pay, and shall be solely responsible for, its operating expenses, including, but not limited to, the wages of its employees and any and all taxes, licenses, and fees levied or assessed on such Party in connection with or incident to the performance of this Agreement by any governmental agency for unemployment compensation insurance, old age benefits, social security or any other taxes on the wages of such Party, its agents, its employees, and its representatives.

- (b) Nothing in this Agreement shall (1) modify, alter, or impair in any way any pre-existing contractual arrangement or agreement between or among either the CITY or the HCTID or (2) preclude either Party from entering into other agreements with respect to matters not specifically addressed in this Agreement.

**Section 2.06. Extent of Covenants; No Personal Liability.** All covenants, obligations, and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, trustee, officer, agent, or employee of any Party in other than his or her official capacity; and neither the CITY or any member of the Council or the HCTID or any member of the HCTID Board of Trustees, nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement or by reason of the covenants, obligations, or agreements of the Parties contained in this Agreement.

**Section 2.07. Liability of the Parties.** Neither Party shall have any liability to the other Party for any mistakes or errors in judgment or for any act or omission believed in good faith to be in the scope of authority conferred upon such Party by this Agreement. The fact that a Party has acted or not acted pursuant to the instructions of the other Party or has obtained the advice of legal counsel that such act or omission is within the scope of the authority conferred by this Agreement shall be conclusive evidence that such Party believed in good faith such act or omission to be within the scope of the authority conferred by this Agreement.

**Section 2.08. No Third Party Beneficiary.** Only the Parties shall have any rights under this Agreement. No other persons or entities, shall have any rights under this Agreement or be deemed to be third-party beneficiaries of this Agreement.

### **Article III Representations and Further Agreements**

**Section 3.01. Representations of the HCTID.** To induce the CITY to enter into this Agreement, the HCTID represents to the CITY as follows:

- (a) it is duly constituted and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) the execution, delivery, and performance of this Agreement have been duly authorized by all requisite action on the part of the HCTID and the Trustees; and this Agreement, when executed and delivered by the HCTID, will constitute a legal, valid, and binding obligation of the HCTID; and
- (c) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to the HCTID or (2) result in a default under any agreement or instrument to which the HCTID is a party or by which it is bound.

**Section 3.02. Representations of the CITY.** To induce the HCTID to enter into this Agreement, the Council represents to the HCTID as follows:

- (a) it is the duly constituted and duly elected governing body of the CITY under the laws of the State;
- (b) it has full power and authority to execute and to deliver this Agreement and to perform its obligations hereunder;
- (c) the execution, delivery, and performance of this Agreement have been duly authorized by all requisite action on the part of the CITY; and this Agreement, when executed and delivered by the Council, will constitute a legal, valid, and binding obligation of the CITY;
- (d) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to the CITY or (2) result in a default under any agreement or instrument to which either the Council or the CITY is a party or by which either the Council or the CITY is bound; and

**Section 3.03. Challenge to Agreement.**

- (a) Each Party waives any and all rights it may have to commence or to maintain any civil action or other proceeding to contest, to invalidate, or otherwise to challenge this Agreement or any of the actions required or contemplated by this Agreement, or to take any actions, either directly or indirectly, to oppose in any other way, or to initiate, promote, or support the opposition of, this Agreement or any of the actions required or contemplated by this Agreement.
- (b) In the event of a court action by a third party challenging the validity or enforceability of this Agreement or any of its provisions, all Parties shall fully cooperate to vigorously defend the Agreement.

**Section 3.04. Good Faith and Fair Dealing.** The Parties hereby acknowledge that this Agreement imposes upon each of them a duty of good faith and fair dealing in its implementation.

**Section 3.05. Notice of Disagreement.** The Parties acknowledge and agree that the performance of certain of the agreements contained herein is to be undertaken in a mutual and cooperative fashion, and, to ensure such cooperative effort, each Party agrees promptly to notify the other of disagreements arising hereunder and to act in good faith to promptly resolve such disagreements.

**Section 3.06. Assignment.** No Party may assign this Agreement, in whole or in part, voluntarily or involuntarily, by operation of law, or otherwise, without the prior written consent of the other Party, which consent shall not unreasonably be withheld.

**Section 3.07. Amendment; Waiver.** This Agreement may not be modified, altered, amended, or discharged, or any rights hereunder waived, except by an instrument in writing executed by all Parties. No waiver of any term, provision, or condition of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, provision, or condition or as a waiver of any other term, provision, or condition of this Agreement.

#### **Article IV Term; Remedies**

**Section 4.01. Term.** This Agreement shall become effective on the Effective Date. Unless sooner terminated pursuant to the other provisions of this Agreement, the term of this Agreement shall be for the period from and after July 31, 2017 to and including June 30, 2018 (the "Term").

**Section 4.02. Termination.** So long as any amount of the Design Work is outstanding and unpaid, this Agreement shall not be terminated. If no Design Work is outstanding, this Agreement may terminate, prior to the expiration of the Term, upon the occurrence of any of the following events the mutual agreement of the Parties to terminate this Agreement.

**Section 4.03. Waiver of Breach.** No waiver by any Party will be effective unless it is in writing and then only to the extent specifically stated and agreed to by all Parties. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power, or remedy by any Party preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. Failure of any Party to demand strict performance of the provisions of this Agreement by any other Party, or any forbearance by any Party in exercising any right or remedy hereunder or otherwise afforded by law, shall not constitute a waiver by such Party of any provision of this Agreement.

#### **Article V Miscellaneous**

**Section 5.01. Time is of the Essence.** Time is of the essence in the compliance with the terms and conditions of this Agreement. Whenever, under the terms of this Agreement, the time

for performance falls on a Day other than a Business Day, such time for performance shall be on the next Business Day.

*Section 5.02. Notices.*

- (a) Except as otherwise provided herein, any notice provided for in this Agreement shall be in writing and shall be deemed to have been duly given as follows:
- (1) upon receipt, when delivered personally to a Party at its address as hereinafter set forth; or
  - (2) one Business Day after being delivered to a reputable overnight courier service, prepaid, marked for next-day delivery to a Party at its address as hereinafter set forth; or
  - (3) on the third Business Day after being mailed by United States mail, registered or certified, return receipt requested, postage prepaid, addressed to a Party at its address as hereinafter set forth; or
  - (4) upon confirmation of receipt by telephone at the number specified for confirmation, if sent by facsimile transmission to a Party at its facsimile number as hereinafter set forth.
- (b) All notices to be given to the HCTID pursuant to this Agreement shall be sent to the HCTID at the following address:

The Hamilton County Transportation Improvement District  
Attn: Theodore Hubbard, P.E. /P.S., Secretary/Treasurer  
10480 Burlington Road  
Cincinnati, Ohio 4523  
Phone: (513) 946-8903  
Facsimile: (513) 946-8903  
Electronic Mail: [ted.hubbard@hamilton-co.org](mailto:ted.hubbard@hamilton-co.org)

- (c) All notices to be given to the CITY pursuant to this Agreement shall be sent to the CITY at the following address:

City of Montgomery  
Attn: Brian Riblet  
Interim City Manager  
10101 Montgomery Road  
Montgomery, OH 45242  
Phone: (513) 792-8319  
Facsimile: (513) 469-1525  
Electronic Mail: [briblet@ci.montgomery.oh.us](mailto:briblet@ci.montgomery.oh.us)

- (d) Any Party may at any time change its address and/or facsimile number for such notices, requests, demands, or statements by giving the other Parties written notice thereof in accordance Section 5.02(a) hereof.

**Section 5.03. Governing Law; Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Ohio in all respects, including matters of construction, validity, and performance.

**Section 5.04. Entire Agreement.** This Agreement (including the recitals and exhibits hereto, which are by this reference incorporated herein and made a part hereof) sets forth all understandings between the Parties respecting the subject matter of this transaction, and all prior agreements, understandings, and representations, whether oral or written, representing this subject matter are merged into and superseded by this written Agreement. No course of prior dealings among the Parties and no usage of trade shall be relevant or admissible to supplement, to explain, or to vary any of the terms of this Agreement.

**Section 5.05. Binding Effect.** This Agreement, and the terms, covenants, and conditions hereof, shall be binding upon and inure to the benefit of the Parties and, subject to the prohibitions of assignment set forth herein, their respective administrators, successors, and assigns.

**Section 5.06. Counterparts; Facsimile Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts. The Parties further agree that facsimile signatures by the Parties shall be binding to the same extent as original signatures.

**IN WITNESS WHEREOF**, this Intergovernmental Agreement has been duly executed and delivered for, in the name of, and on behalf of the Parties by their duly authorized officers, all as of the Effective Date.

**CITY:**

**THE CITY OF MONTGOMERY,  
HAMILTON COUNTY, OHIO**

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

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

**HCTID:**

**THE HAMILTON COUNTY  
TRANSPORTATION  
IMPROVEMENT DISTRICT**

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

Secretary-Treasurer

**FISCAL OFFICER'S CERTIFICATE**

The undersigned, the Fiscal Officer of City of Montgomery, Hamilton County, Ohio, hereby certifies that the moneys required (if any) to meet the obligations of the City of Montgomery for the year 2017 under the foregoing Intergovernmental Agreement have been lawfully appropriated and are in the treasury of City of Montgomery or are in the process of collection to the credit of an appropriate fund free from any previous encumbrances. Pursuant to ORC § 5705.44, the Fiscal Officer of the City of Montgomery covenants that any requirement herein of an expenditure of the City of Montgomery money in any future fiscal year shall be included in the annual appropriation measure for that future fiscal year as a fixed charge. This Certificate is given in compliance with ORC § 5705.41 and § 5705.44.

Dated: \_\_\_\_\_, 2017

\_\_\_\_\_

\_\_\_\_\_, Fiscal Officer  
CITY OF MONTGOMERY, OHIO

**EXHIBIT A**

*“Project Costs Funding Summary”*

**2018 Transportation Improvement District Budget Form**

Date of Submission	05/30/17
TID Name	Hamilton County TID

Project Overview	Estimated Cost	Estimated Completion Date
Design	\$ 1,340,632	7/1/2019
Right-of-Way Acquisition (RW)	\$ 50,000	6/28/2017
Construction (CO)	\$ 8,634,068	6/1/2021
<b>Total</b>	<b>\$ 10,024,700</b>	

**Secured Funding** - List all funding sources that you have secured for this project. Project must demonstrate funding need/gap. Evidence of secured funding must be provided.

Funding Partner	Design	ROW	Construction	Total
City of Montgomery	\$ 180,000	\$ 50,000	\$ 1,288,525	\$ 1,518,525
OKI / STP			\$ 6,000,000	\$ 6,000,000
				\$ -
				\$ -
<b>Total</b>				<b>\$ 7,518,525</b>

**Targeted Funding** - List all funding sources that you plan to request to fill the project gap.

Funding Partner	Design	ROW	Construction	Total	Date Available
ODOT TID Fund	\$ 250,000			\$ 250,000	7/1/2017
OPWC			\$ 845,543	\$ 845,543	7/1/2018
TIF	\$ 910,362		\$ 500,000	\$ 1,410,632	7/1/2018
<Insert Funding Partner>				\$ -	
<b>Total</b>				<b>\$ 2,506,175</b>	

\*Secured plus targeted funding should equal total project cost.

**EXHIBIT B**

*“HB 26 Funding Agreement”*

**TRANSPORTATION IMPROVEMENT DISTRICT AGREEMENT  
BETWEEN THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION AND  
HAMILTON COUNTY TRANSPORTATION IMPROVEMENT DISTRICT**

**THIS AGREEMENT** is made by and between the State of Ohio, Department of Transportation, (hereinafter referred to as ODOT), 1980 West Broad Street, Columbus, Ohio 43223 and the Hamilton County Transportation Improvement District, 10480 Burlington Road, Cincinnati, Ohio 45231 (hereinafter referred to as the TID).

1. PURPOSE

- 1.1 Section 5501.03(A)(3) of the Ohio Revised Code (ORC) provides that ODOT may coordinate its activities with those of other appropriate state departments, public agencies, and authorities, and enter into any contracts with such departments, agencies, and authorities as may be necessary to carry out its duties, powers, and functions.
- 1.2 ORC Section 5501.11(A)(4) states the ODOT with respect to highways shall cooperate with the counties, municipal corporations, townships, and other subdivisions of the state in the establishment, construction, reconstruction, maintenance, repair, and improvement of the public roads and bridges.
- 1.3 ORC Section 5540.03(A)(8) provides that the TID may enter into contracts and agreements necessary for the performance of its functions and the execution of its powers under Chapter 5540.
- 1.4 ORC Section 5540.03(A)(10) states that the TID may accept grants from a state agency for or in aid of the construction of any project.
- 1.5 Pursuant to the authority provided in ORC Section 5540.03(A)(4), the TID will construct the Montgomery Road / Ronald Regan Highway Interchange Improvements project as described in the TID's SFY18 ODOT Funding Application (herein referred to as the PROJECT).
- 1.6 ORC Section 5735.05 provides that the State Motor Fuel Tax revenues are to be used for maintaining the state highway system.
- 1.7 ORC Section 5531.08(B) provides that the Director of Transportation may decide to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay in order to enable the counties of the state to plan, maintain, and repair their roads or to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets.
- 1.8 The purpose of this Agreement is to set forth the responsibilities of the parties associated with the Jobs & Commerce Transportation Improvement District ("JCTID") program funding (SAC 4TM7) that is being made available for the PROJECT by ODOT.

1.9 The TID shall comply with all applicable Federal and State laws, regulations, and applicable executive orders in regards to the PROJECT. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

2. FUNDING AND PAYMENT

2.1 The total cost for the PROJECT is estimated to be **\$10,024,700**. HB 26 Section 203.40 states that funds may be used for preliminary engineering, detailed design, right of way acquisition, and construction of the specific project. Funds provided through ODOT shall be applied only to the eligible costs awarded, which is the design of the PROJECT, as required for the actual construction of the PROJECT.

2.2 Funds provided by ODOT under this Agreement shall not exceed **\$250,000**. The TID, in conjunction with its funding partners, and to the extent permitted under HB 26 Section 203.40, shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns and TID claims.

2.3 HB 26 Section 203.40 (C) states that any ODOT funding provided to a TID shall not be used for the purposes of administrative cost or administrative staffing and must be used to fund a specific project or projects as defined in Section 1.5.

2.4 All funding from ODOT under this Agreement operates on a reimbursement basis. The TID shall review and approve all invoices for materials, equipment and labor prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT.

2.5 The TID shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The TID must submit to ODOT a written request for reimbursement of the state share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted. The TID may submit a maximum of two requests for reimbursement. The deadline for the final reimbursement request is May 30, 2018.

2.6 Reimbursement to the TID shall be submitted to:

Hamilton County TID  
Ted Hubbard, P.E., P.S.  
10480 Burlington Road  
Cincinnati, Ohio 45231  
(513) 946-8902

3. PROJECT DEVELOPMENT AND DESIGN

3.1 The TID is administering this PROJECT and is responsible for all aspects of the project, including but not limited to: environmental responsibilities, permit requirements, right of way or utility reimbursement, and construction contract administration.

3.2 Any right, claim, interest, and/or right of action, whether contingent or vested, of the TID, arising out of or related to any contract entered into by the TID for the work to be performed by the TID on this PROJECT is the responsibility of the TID. ODOT expressly rejects any liability for the PROJECT and any claims arising from the PROJECT.

4. CERTIFICATION AND RECAPTURE OF FUNDS

4.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by Ohio Revised Code section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

4.2 If for any reason the PROJECT is found to not be in compliance with all applicable local, state, or federal rules and processes the TID shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT.

5. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

5.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the Revised Code.

5.2 The TID hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the TID's obligations made or agreed to herein.

6. NOTICE

6.1 Notice under this Agreement shall be directed as follows:

If to the TID:  
Ted Hubbard, P.E., P.S.  
Hamilton County TID  
10480 Burlington Road  
Cincinnati, Ohio 45231  
(513) 946-8902  
[ted.hubbard@hamilton-co.org](mailto:ted.hubbard@hamilton-co.org)

If to ODOT:  
Melissa Taylor, Regional Manager  
Division of Jobs & Commerce - ODOT  
505 South State Route 741  
Lebanon, Ohio 45036  
(513) 933-6155  
[melissa.taylor@dot.ohio.gov](mailto:melissa.taylor@dot.ohio.gov)

## 7. FEDERAL REQUIREMENTS

If applicable, then during the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "TID") agrees as follows:

- 7.1 The TID will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, or future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
- 7.2 The TID agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The TID will, in all solicitations or advertisements for employees placed by or on behalf of TID, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, or future).
- 7.3 Compliance with Regulations: The TID (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 7.4 Nondiscrimination: The TID, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (ancestry), sex, age (40 years or older), disability, low-income status, or limited English proficiency in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The TID will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 7.5 Solicitations for the TID, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the TID for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by the TID of the TID's obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin (ancestry), sex, age (40 years or older), disability, low-income status, or limited English proficiency.
- 7.6 Information and Reports: The TID will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the ODOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a TID is in the exclusive possession of another who fails or refuses to furnish this information, the TID will so certify

to ODOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

- 7.7 Sanctions for Noncompliance: In the event of the TID's noncompliance with the nondiscrimination provisions of this contract, ODOT will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
- a) Withholding of payments to the TID under the Agreement until the TID complies, and/or
  - b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- 7.8 Incorporation of Provisions: The TID will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The TID will take action with respect to any subcontract or procurement as ODOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the TID becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the TID may request ODOT to enter into any litigation to protect the interests of ODOT. In addition, the TID may request the United States to enter into the litigation to protect the interests of the United States.

If applicable, then during the performance of this Agreement, the TID, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) (prohibits discrimination on the basis of sex)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age)
- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and TIDs, whether such programs or activities are Federally funded or not)
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public

and private transportation systems, places of public accommodation, and certain testing entities)

- The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (prohibits discrimination in the sale, rental, and financing of dwellings on the basis of race, color, religion, sex, national origin, disability, or familial status (presence of child under the age of 18 and pregnant women))
- Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 et seq.) (prohibits discrimination on the basis of sex in education programs or activities)
- Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA 38 U.S.C. 4301-4335) (prohibits discrimination on the basis of present, past or future military service)

## 8. GENERAL PROVISIONS

- 8.1 *Record Retention:* The TID when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its books, documents, and records relating to the TID obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute.
- 8.2 *Ohio Ethics Laws:* The TID agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.
- 8.3 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the TID hereby irrevocably consents to such jurisdiction. To the extent

that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

- 8.4 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 8.5 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 8.6 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 8.7 *Term of Agreement:* This Agreement shall be in effect from the last day executed by the parties through the date which is three (3) years after the PROJECT completion date. The TID acknowledges that the Term extends beyond the Agreement completion date for purposes of reporting by the TID and monitoring by Grantor of the results of the award of Grant Funds.
- 8.8 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

**HAMILTON COUNTY TID  
OR AUTHORIZED REPRESENTATIVE**

**STATE OF OHIO  
OHIO DEPARTMENT OF TRANSPORTATION**

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

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

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

Jerry Wray  
Director

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

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

These minutes are a draft of the proposed minutes from the City Council meeting. They do not represent the official record of proceedings until formally adopted by the City Council. Formal adoption is noted by signature of the Clerk within the minutes.

City of Montgomery  
City Council Work Session Minutes  
August 23, 2017

Present

Brian Riblet, Interim City Manager  
Terry Donnellon, Law Director  
John Crowell, Police Chief  
Tracy Roblero, Community Development Director  
Katie Smiddy, Finance Director  
Matthew Vanderhorst, Community and Information Services Director  
Paul Wright, Fire Chief  
Faith Lynch, Community Engagement Coordinator  
Connie Gaylor, Clerk of Council

City Council Members Present

Chris Dobrozsi, Mayor  
Lynda Roesch, Vice Mayor  
Laith Alfaqih  
Mike Cappel  
Gerri Harbison  
Ken Suer

Council Member Absent

Craig Margolis

---

City Council convened in Council Chambers for the Work Session at 7:00 p.m. with Mayor Dobrozsi presiding.

**ROLL CALL**

Mayor Dobrozsi stated that Council Member Margolis was absent due to a family vacation and asked for a motion to excuse his absence.

Mr. Cappel moved to excuse Mr. Margolis from the meeting. Ms. Roesch seconded. City Council unanimously agreed.

The roll was called.

**Legislation for Consideration This Evening**

Mayor Dobrozsi explained that there was a need to add two pieces of legislation to the agenda tonight that weren't previously discussed and asked for a motion to place them on the agenda for consideration this evening.

Mr. Cappel made the motion to add the following legislative items to the agenda for consideration this evening. Mr. Alfaqih seconded. City Council unanimously agreed.

**A Resolution to Adopt a Recommendation from the Montgomery Tax Incentive Review Council with Respect to the Compliance of all Tax Increment Financing Districts within the City of Montgomery**

Mr. Suer moved to read the Resolution by title only. Mr. Cappel seconded. City Council unanimously agreed.

Mr. Suer read the Resolution by title only and moved for passage. Mr. Cappel seconded.

Mr. Suer stated that Ohio law mandates that City Council approve, reject or remand the decision of the Tax Incentive Review Council relative to the compliance of the tax increment financing districts with their enabling legislation. It is recommended that City Council consider a Resolution to affirm the attached report of the Tax Incentive Review Council, so staff may file this Resolution, indicating City Council's action, with the Ohio Department of Development by the September 1 deadline. Due to the scheduling of the various jurisdictions and multiple calendars, the meeting was delayed this year which does require the legislation to be passed at this evenings meeting in order to meet the deadline as set forth in the statute.

The roll was called and showed the following vote:

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54 AYE: Cappel, Alfaqih, Harbison, Dobrozsi, Roesch, Suer (6)

55 NAY: Margolis (1)

56

57 **A Resolution Authorizing Additional Compensation for the Interim City Manager**

58

59 Mrs. Harbison moved to read the Resolution by title only. Mr. Cappel seconded. City Council unanimously agreed.

60

61 Mrs. Harbison read the Resolution by title only and moved for passage. Ms. Roesch seconded.

62

63 Mrs. Harbison explained that, if approved, this Resolution would establish compensation for Brian Riblet during  
64 his term as Interim City Manager. Council by motion will add this Resolution to the agenda this evening which will  
65 address the additional compensation to be paid to Brian Riblet during the term he serves as Interim City Manager.  
66 There currently is no salary scale for the position of City Manager as it is approved annually as a part of a review  
67 and compensation package for the position. This will formally authorize the additional compensation to Brian  
68 during this interim period.

69

70 The roll was called and showed the following vote:

71

72 AYE: Alfaqih, Harbison, Dobrozsi, Roesch, Suer, Cappel (6)

73 NAY: Margolis (1)

74

75 **ESTABLISHING AN AGENDA FOR SEPTEMBER 6, 2017**

76

77 **Pending Legislation**

78

79 **An Ordinance Accepting Dedicated Stormwater Improvements in The Montgomery Woods Subdivision—**  
80 **(Mr. Margolis-3rd Reading)**

81

82 Mayor Dobrozsi read the title of the Ordinance and explained that this would be the third reading. He asked if there  
83 were any updates.

84

85 Mr. Riblet replied that there were none.

86

87 **A Resolution Authorizing a Reimbursement Agreement with Gateway Partners, LLC—(Mr. Suer)**

88

89 Mr. Donnellon explained that this Resolution was tabled at the July 19, 2017 Work Session and that there was no  
90 further action needed at this time. He advised to leave the Resolution tabled.

91

92 **New Legislation**

93

94 **Presentation by the Healthcare Benefits Committee on the recommendations of the Resolutions for Health**  
95 **Care and Dental Insurance Coverage**—James Martin of the Health Care Benefits Committee explained that the  
96 Committee met with Julie Tople of Horan Associates over the past several weeks to review proposals for the renewal  
97 of our group medical, dental and life insurance coverages for the period of October 1, 2017 through September 30,  
98 2018. The current HCBC members are James Martin, Patrick Morgan, Julie Prickett, Mike Rogers and Katie  
99 Smiddy. He stated that the City received five proposals for medical insurance, with a sixth carrier (Aetna) declining  
100 to provide a quote as it would not be competitive. Anthem quoted a renewal rate reflecting a 3% decrease from  
101 current premium rates; however, Anthem's proposal did not match our current plan design as it included higher  
102 prescription co-pays and out of pocket maximums. After initially proposing a 12.7% renewal increase, Humana's  
103 final renewal proposal reflected a zero percent increase. Upon reviewing the various proposals, the Committee

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104 decided to recommend remaining with Humana with a zero percent increase and continuing with the same plan  
105 structure of a High Deductible Health Plan/Health Savings Account (HDHP/HSA) with \$3,000/\$6,000 deductibles  
106 (which cover prescriptions after meeting deductibles.) The HDHP/HSA plan with the \$3,000/\$6,000 deductible  
107 would result in monthly premium costs remaining at the current rates of \$402.50 for Single coverage, \$885.50 for  
108 Employee/Spouse, \$764.75 for Employee/Child(ren), and \$1,288.00 for Family coverage.  
109

110 Mr. Martin noted that participation in Humana's employees and family member's wellness program (Go365) has  
111 resulted in additional savings on premiums for the City. During the current benefit period, the City has realized a  
112 savings of \$15,299 since the last renewal. During the prior period, a savings of \$13,445 as a result of member  
113 participation in the Go365 wellness program was achieved. If Council approves renewing a contract with Humana,  
114 the HCBC plans to continue to encourage participation in the Go365 program to yield additional premium savings  
115 for the City.  
116

117 Mr. Martin stated that the City received an initial proposal from its current carrier, Dental Care Plus, Inc., to renew  
118 the existing plan with an eight percent increase. The final proposal from Dental Care Plus was a two-year renewal  
119 with four percent increases. The City has contracted with Dental Care Plus for group dental insurance for over  
120 seven years. Last year's renewal was at a zero percent increase followed by a heavy utilization period with our  
121 group. Given the superior plan coverage and network of providers compared to other dental insurance carriers, as  
122 well as a good history with Dental Care Plus, the Health Care Benefits Committee was able to reach unanimous  
123 agreement in favor of recommending renewing with Dental Care Plus, Inc. for a two-year contract for group dental  
124 insurance.  
125

126 Mayor Dobrozsi thanked Mr. Martin for his presentation and the entire Health Care Benefits Committee for their  
127 efforts in pursuing the best benefit package for the employees and for the City.  
128

129 City Council thanked staff for their work on behalf of the City and their fellow employees, in obtaining competitive  
130 quotes and negotiating a zero percent increase in premiums.  
131

132 **A Resolution Establishing City Contributions for Health Care Benefits**

133  
134 Ms. Smiddy explained that in conjunction with the renewal of the health care benefits, the City must look at the  
135 "caps" for the cost of healthcare benefits for each health insurance plan year. She explained that beginning in 1998,  
136 the City established "caps" to contain its costs related to employee medical and dental insurance coverages based  
137 upon the types of plans that are selected by employees (family, single, employee plus spouse, and employee plus  
138 children plans.) For many years, the City has increased these "caps" by six percent (6%) for medical insurance and  
139 three percent (3%) for dental insurance. This practice allows for some increase in the cost of healthcare but also  
140 ensures that the increased costs are shared between the City and its employees. The "share concept" also incentivizes  
141 the Employee Healthcare Benefits Committee to modify benefits where appropriate to contain costs. The cap figures  
142 below represent a six percent increase for medical insurance and three percent increase for dental insurance over  
143 current cap amounts. The recommended caps for 2017-2018 which would be effective October 1, 2017 are as  
144 follows:  
145

146	Family Plan:	\$1,245.83
147	Employee/Spouse:	\$ 905.10
148	Employee/Child(ren)	\$ 905.10
149	Single:	\$ 452.75
150	Dental:	\$ 171.13

151  
152 She noted that these "caps" are already contained in the City's labor contracts with the FOP and the IAFF, as well  
153 as in the proposed labor contract with AFSCME.

154 **A Resolution Authorizing the City Manager to Enter into a Contract with Humana Health Plan of Ohio to**  
155 **Provide Medical Coverage and Life Insurance for Full-Time Employees**

156  
157 Staff had no additional comments to add in addition to the presentation made by the Health Care Benefits  
158 Committee.

159  
160 **A Resolution Authorizing the City Manager to Enter into a Contract with Dental Care Plus to Provide Dental**  
161 **Insurance Coverage for Full-Time Employees**

162  
163 Staff had no additional comments to add in addition to the presentation made by the Health Care Benefits  
164 Committee.

165  
166 **A Resolution Authorizing the Interim City Manager to Enter into a LPA Local-Let Project Agreement with**  
167 **the Ohio Department of Transportation (ODOT) for the HAM-SR 126/US 22-20.00/13.19 PID#104936**

168  
169 Mr. Riblet explained that, if approved, this Resolution would authorize a Local-Let Project Agreement (LPA) with  
170 the Ohio Department of Transportation (ODOT) for the HAM-SR 126/US 22-20.00/13.19 PID#104936. This LPA  
171 agreement will allow the City to be the “lead” agency for advertising, awarding and inspecting the construction of  
172 a multi-lane roundabout to replace the existing interchange of SR-126 and Montgomery Road (US-22/SR-3). The  
173 City has been approved for funding through the Ohio-Kentucky-Indiana Regional Council of Governments (OKI)  
174 in the amount of \$6,000,000. This amount represents 70% of the overall project cost of \$8,571,429. The LPA  
175 agreement includes the requirement for the City of Montgomery to be responsible for up to \$2,571,429 of the total  
176 project cost estimate. If the project cost exceeds \$8,571,429 the City of Montgomery would be responsible for  
177 100% of the project costs exceeding that amount. Funding for the project is currently included in the 2020  
178 Montgomery Capital Improvement Program (CIP) budget, however, it is anticipated a roundabout construction fund  
179 will be requested in the upcoming 2018-2022 budget process.

180  
181 **A Resolution Authorizing the Interim City Manager to enter into a LPA Local-Let Project Agreement with**  
182 **the Ohio Department of Transportation (ODOT) for the HAM-US 22-14.74 Montgomery Sidewalks**  
183 **PID#104934**

184  
185 Mr. Riblet explained that, if approved, this Resolution would authorize a LPA Local-Let Project Agreement with  
186 the Ohio Department of Transportation (ODOT) for the HAM-US 22-14.74 Montgomery Sidewalks PID#104934.  
187 This LPA agreement will also allow the City to be the “lead” agency for advertising, awarding and inspecting the  
188 construction of a concrete sidewalk on the east side of Montgomery Road from Radabaugh Drive to just south of  
189 Hopewell Road. The City has been approved for a reimbursement grant of up to \$386,680. This amount represents  
190 80% of the overall project cost of \$483,350. The LPA agreement includes the requirement for the City of  
191 Montgomery to be responsible for up to \$96,670 of the total project cost estimate. If the project cost exceeds  
192 \$483,350 the City of Montgomery would be responsible for 100% of the project costs exceeding that amount.  
193 Funding for the project is currently included in the 2021 Montgomery Capital Improvement Program (CIP) budget.

194  
195 **A Resolution Authorizing an Intergovernmental Agreement between the City and the Hamilton County**  
196 **Transportation Improvement District**

197  
198 Mr. Riblet explained that, if approved, this Resolution would authorize an Intergovernmental Agreement between  
199 the City and the Hamilton County Transportation Improvement District (HCTID). Upon application by the City to  
200 the Hamilton County Transportation Improvement District, the City was awarded a grant of up to \$250,000 to  
201 provide reimbursement for engineering and design support for the Montgomery Road/Ronald Reagan Interchange  
202 Improvements Project. This legislation authorizes the City Manager to execute an Intergovernmental Agreement

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203 with the HCTID to co-administer and co-manage the Project. The City may be eligible for additional funding in  
204 future fiscal years during the term of the Project.

205

206 **ADMINISTRATION REPORT**

207

208 Mr. Riblet, Interim City Manager, gave the following report:

209

210 • The Law and Safety and Financial Planning Committees will meet on Tuesday, September 5 at 4:30 and  
211 5:30 p.m. respectively. The Planning, Zoning and Landmarks Committee of City Council has cancelled  
212 their meeting for the month of September.

213

214 • The City Council Business Session is scheduled for September 6 at 7:00 p.m.

215

216 • The Parks and Recreation and Government Affairs Committees will meet on Monday, September 11 at 3:00  
217 and 4:00 p.m. respectively. The Public Works Committee has cancelled their meeting for the month of  
218 September.

219

220 • The 2018 Budget Review Meeting will be held on September 27 at 5:30 p.m. in Council Chambers.

221

222 • The Board of Zoning Appeals met on Tuesday evening to consider a request for a front and side yard setback  
223 variance to allow for a new home to be constructed on the northwest corner of Mitchell Farm Lane and  
224 Knollbrook Terrace. There were several residents in attendance at the meeting both in support and  
225 opposition of the variance request. After reviewing the case and hearing the testimony provided at the  
226 meeting, the Board of Zoning Appeals voted to approve the variance requests, as submitted.

227

228 • Katie Busch, the intern who has been working in the CIS department, completed her internship today and  
229 is preparing to return to school. Katie researched best practices and user demographics for social media and  
230 customer service. She created two quality reports that will be shared in the Thursday update and rolled into  
231 the 2016-2021 Strategic Plan and communications task team. It was a pleasure to have Katie on our staff  
232 for the past five weeks.

233

234 • The Business Calling Team has partnered with the Chamber of Commerce to survey local businesses to  
235 assess their current and future needs and to solicit feedback on traffic concerns and other amenities, as  
236 outlined in the 2016-2021 Strategic Plan (3.2.1). Members of the Montgomery Chamber of Commerce will  
237 be asked to complete the survey by November 30. Concurrently, members of the Business Calling Team  
238 will meet with individual businesses to complete the survey during their business calling meetings. Ideally,  
239 the team hopes to collect a representative sample of completed surveys by mid to late 2018.

240

241 • Lauren Frazier will begin her new assignment as detective beginning Monday, August 28. She is the first  
242 female detective in our department history.

243

244 • A contract was signed with Aeromark Inc., to complete the 2017 Annual Pavement Marking Program in  
245 the amount of \$19,688.

246

247 • On Tuesday, the negotiation teams for the City and for AFSCME met for their second negotiations session  
248 to work on a new collective bargaining agreement. A third negotiations session will be scheduled in the  
249 upcoming weeks. The current agreement expires August 31.

250

251 • The Civil Service Commission is scheduled to meet this Thursday at 5:00 p.m. at the Safety Center to  
252 review recommendations for examination processes for the positions of patrol officer, police sergeant and

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253 fire lieutenant. Chief Crowell, Chief Wright, Assistant Chief Shapiro, Assistant Chief Vonden Benken and  
254 Human Resources Manager Julie Prickett will be presenting information to the Commission. With recent  
255 promotions, Don Simpson's retirement and Greg Schill's retirement, there are two patrol officer positions  
256 and one sergeant position to fill. There is currently no fire lieutenant opening; however, Chief Wright will  
257 be requesting an exam process to create an eligible list to have ready in the event of an opening should there  
258 be a retirement.

- 259
- 260 • First round of interviews for the Assistant Finance Director and Tax Commission were completed last week.
- 261
- 262 • As a reminder, City offices will be closed on September 4 in observance of Labor Day.
- 263
- 264 • General Montgomery Day, will be held on September 9 in the Village of Montgomery, NY. Paul Wright  
265 and Matthew Vanderhorst will be driving to attend whereas Mr. Cappel will be biking up. Staff will be  
266 updating our social media pages, tracking his progress along the way.
- 267
- 268 • The Hamilton County Municipal League will be hosting a picnic themed dinner on Monday September 18.  
269 The dinner will begin at 6:30 with tours of the Summit Park facility being held at 5:30 for any interested  
270 attendees. Those attending the tour will meet at the Community Room (adjacent to Brown Dog Café)  
271 promptly at 5:30. Speakers will be Hamilton County Sheriff Jim Neil and Coroner Dr. Lakshmi Sammarco  
272 discussing the opioid crisis.
- 273
- 274 • Our annual First Responder Breakfast is scheduled for October 6 from 7:00-9:00 p.m. at the Safety Center,  
275 Mayor's Court. Please mark your calendars to attend this breakfast.
- 276

277 **LAW DIRECTOR REPORT**

278  
279 No report was given.

280  
281 **CITY COUNCIL REPORTS**

282  
283 Mr. Cappel reported that the Environmental Advisory Commission will hold a Catch Basin Labeling project on  
284 Saturday, August 26. Commission members, volunteers and staff will meet at the Swaim Park Gazebo at 9:00 a.m.  
285 to begin the inspection and replacement of labels mounted on the stormwater basin hoods. This is the third phase  
286 of the project and the Commission feels it will complete the replacement of these labels across the City.  
287

288 Mr. Alfaqih reports that the City Council City Manager Search Committee held interviews with three professional  
289 search firms to consider for services related to the City Manager search. He stated that after all interviews the  
290 Search Committee is recommending to contract with Management Partners. He explained that all firms were very  
291 competent, however given the experience that Management Partners has with the City, they would be a better fit.  
292

293 Mr. Alfaqih made a motion to accept Management Partners proposal to lead the City Manager search process. Mr.  
294 Cappel seconded. City Council unanimously agreed.  
295

296 Ms. Roesch reported that the Beautification and Tree Commission met and held a debriefing of the 2017 Garden  
297 Tour held in June. They reported that one of the participating residences was also honored by the Cincinnati  
298 Horticultural Society with a residence award. The Commission is currently discussing collaborating with the  
299 Horticultural Society on next year's Garden Tour.  
300

301 Ms. Roesch reported that the Staff along with the assistance of the Parks and Recreation Commission created the  
302 Montgomery Park Explorer Program for ages 2-5 and 6-12. This program will include every City park in a workbook

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303 in which the explorer will answer questions and perform activities that are specific to each park. Upon completion  
304 of the workbook staff will present the Explorer with a patch and a certificate. The program will be presented via the  
305 City website the beginning of October.  
306

307 Ms. Roesch reported that the Blue Ash Montgomery Symphony Orchestra (BAMSO) will hold a Labor Day Concert  
308 at the Blue Ash Towne Square at 6:00 p.m. She also stated that the annual BAMSO Gala will be held on Saturday,  
309 September 30 at the Peterloon Foundation.  
310

311 Mr. Suer stated his agreement in the selection of Management Partners for the City Manager search process. He  
312 explained that with the knowledge that Management Partners has with the City's Strategic Plan and their knowledge  
313 of the resident's expectations through past citizen surveys, that they would understand Montgomery the best.  
314

315 Mrs. Harbison reminded Council and staff of the upcoming Shakespeare in the Park production of Romeo and Juliet  
316 that will be held on Sunday, September 3 at 7:00 p.m., in Montgomery Park.  
317

318 Mrs. Harbison reported that the next Chamber luncheon will be held at Ohio National on Thursday, September 7 at  
319 noon.  
320

321 Mayor Dobrozsi stated that he and staff have received several calls regarding the Duke Energy tree trimming process  
322 that is currently underway. He reported that staff has been in contact with Warren Walker of Duke Energy to address  
323 the residents' concerns with the trimming process.  
324

325 **APPROVAL OF MINUTES**

326  
327 Mayor Dobrozsi requested a motion to approve the August 2, 2017 Business Session minutes.  
328

329 Mr. Cappel moved to approve the minutes. Mrs. Harbison seconded. City Council unanimously agreed.  
330

331 **OTHER BUSINESS**

332  
333 Mayor Dobrozsi asked if there was any further business to discuss in Public Session. There being none, he asked  
334 for a motion to adjourn.  
335

336 Mr. Cappel moved to adjourn. Ms. Roesch seconded. City Council unanimously agreed.  
337

338 City Council adjourned at 7:54 p.m.  
339  
340  
341  
342

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Connie Gaylor, Clerk of Council

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1  
2  
3 City of Montgomery  
4 City Council City Manager Search Committee Special Session  
5 August 7, 2017

6 **Council Members Present**

7 Laith Alfaqih, Chair

8 Gerri Harbison

9 Craig Margolis

10  
11  
12 The City Council Search Committee convened in Council Chambers with Chairman Alfaqih presiding at 6:30 p.m.

13  
14 Mr. Alfaqih indicated that the City Council Search Committee would be adjourning into Executive Session to  
15 discuss matter related to personnel and compensation.

16  
17 Mr. Alfaqih asked if there was any further business to discuss in public session. There being none he asked for a  
18 motion of adjournment into Executive Session to discuss matters related to personnel and compensation.

19  
20 Mrs. Harbison moved to adjourn into Executive Session for matters related to personnel and compensation. Mr.  
21 Margolis seconded. The Committee unanimously agreed.

22  
23 The Search Committee of City Council adjourned into Executive Session at 6:30 p.m.

24  
25 The Search Committee of City Council reconvened in public session at 7:05 p.m.

26  
27 Mr. Alfaqih asked if there was any further business to discuss in public session. There being none he asked for a  
28 motion of adjournment.

29  
30 Mr. Margolis moved to adjourn. Mrs. Harbison seconded. The Committee unanimously agreed.

31  
32 The Special Session of the City Council City Manager Search Committee adjourned at 7:05 p.m.

33  
34  
35  
36  
37  

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Clerk of Council

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1  
2  
3 City of Montgomery  
4 City Council City Manager Search Committee Special Session  
5 August 9, 2017

6 **Council Members Present**

7 Mayor Chris Dobrozsi  
8 Vice Mayor Lynda Roesch  
9 Laith Alfaqih, Chair of Search Committee  
10 Mike Cappel  
11 Gerri Harbison, City Manager Search Committee  
12 Craig Margolis, City Manager Search Committee  
13 Ken Suer  
14

---

15  
16 City Council convened in Council Chambers with Chairman Alfaqih presiding at 5:33 p.m.

17  
18 Mr. Alfaqih indicated that City Council would be adjourning into Executive Session to discuss matter related to  
19 personnel and compensation.

20  
21 Mr. Alfaqih asked if there was any further business to discuss in public session. There being none he asked for a  
22 motion of adjournment into Executive Session to discuss matters related to personnel and compensation.

23  
24 Mr. Cappel moved to adjourn into Executive Session for matters related to personnel and compensation. Mayor  
25 Dobrozsi seconded. The Committee unanimously agreed.

26  
27 The Search Committee of City Council adjourned into Executive Session at 5:33 p.m.

28  
29 The Search Committee of City Council reconvened in public session at 6:25 p.m.

30  
31 Mr. Alfaqih asked if there was any further business to discuss in public session. There being none he asked for a  
32 motion of adjournment.

33  
34 Mr. Margolis moved to adjourn. Mr. Cappel seconded. The Committee unanimously agreed.

35  
36 The Special Session of the City Council City Manager Search Committee adjourned at 6:25 p.m.  
37  
38  
39  
40

41  
\_\_\_\_\_  
Clerk of Council

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1  
2  
3 City of Montgomery  
4 City Council City Manager Search Committee Special Session  
5 August 16, 2017

6 **Council Members Present**

7 Mayor Chris Dobrozsi

8 Vice Mayor Lynda Roesch

9 Laith Alfaqih, Chair of Search Committee

10 Mike Cappel

11 Gerri Harbison, City Manager Search Committee

12 Craig Margolis, City Manager Search Committee

13 Ken Suer

14  
15  
16 City Council convened in Council Chambers with Chairman Alfaqih presiding at 5:30 p.m.

17  
18 Mr. Alfaqih indicated that City Council would be adjourning into Executive Session to discuss matter related to  
19 personnel and compensation.

20  
21 Mr. Alfaqih asked if there was any further business to discuss in public session. There being none he asked for a  
22 motion of adjournment into Executive Session to discuss matters related to personnel and compensation.

23  
24 Mr. Cappel moved to adjourn into Executive Session for matters related to personnel and compensation. Mr.  
25 Margolis seconded. The Committee unanimously agreed.

26  
27 The Search Committee of City Council adjourned into Executive Session at 5:30 p.m.

28  
29 The Search Committee of City Council reconvened in public session at 9:10 p.m.

30  
31 Mr. Alfaqih asked if there was any further business to discuss in public session. There being none he asked for a  
32 motion of adjournment.

33  
34 Mr. Margolis moved to adjourn. Mr. Cappel seconded. The Committee unanimously agreed.

35  
36 The Special Session of the City Council City Manager Search Committee adjourned at 9:10 p.m.

37  
38  
39  
40  
41  

---

Clerk of Council