

RESOLUTION NO. 7 , 2024

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE VINTAGE CLUB
COMMUNITY ASSOCIATION, INC. TO CONSTRUCT ROADWAY
IMPROVEMENTS WITHIN THE VINTAGE CLUB SUBDIVISION**

WHEREAS, the Vintage Club Subdivision is a private subdivision of streets, open spaces, and privately held lots situated within the City and connected to the public street grid within the City; and

WHEREAS, the Vintage Club Community Association, Inc., an Ohio non-profit corporation, is the titled owner of the various streets within the Vintage Club Subdivision, and the Association has requested through its Board of Trustees to Piggy-Back upon the City's 2024 Street Resurfacing Program to allow the City to serve as Contractor to repair and repave certain improved streets within the Vintage Club Subdivision at the sole cost of the Association; and

WHEREAS, the City has publicly bid the 2024 Street Resurfacing Program including Bid Alternates which include repairs and resurfacing to portions of the Vintage Club Subdivision, and the City has determined that the John R. Jurgensen Company's bid is the lowest and best bid for such 2024 Street Resurfacing Program; and

WHEREAS, the City has negotiated the attached Agreement to Construct Roadway Improvements within the Vintage Club Subdivision ("Agreement") and to designate an Escrow Agent to receive the total cost of such construction work in advance of the construction work; and

WHEREAS, the Administration has recommended accepting such Agreement in conjunction with accepting Bid Alternates in the City's contract for the 2024 Street Resurfacing Program; and

WHEREAS, the Board of Trustees of the Association has approved the

Agreement, has reviewed and approved the Bid Alternates 3 through 8 of the John R. Jurgensen Bid, which includes portions of streets within the Vintage Club Subdivision, and the Board of Trustees has designated an appropriate Escrow Agent to hold such funds to be paid in advance of commencing construction.

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

SECTION 1. The City Manager, for and on behalf of the City as Contractor overseeing the 2024 Street Resurfacing Program, is authorized to enter into the attached Agreement to Construct Roadway Improvements within the Vintage Club Subdivision consistent with the terms of the Agreement. The City Manager is authorized to accept the Bid Alternates 3 through 8 preapproved by the Association as a part of the Construction Agreement with the John R. Jurgensen Company for the 2024 Street Resurfacing Program. Further, the City Manager is authorized to finalize the Escrow Agreement with the Association to fund the total cost of such improvements in advance of commencing the construction work.

SECTION 2. The City Manager is authorized to execute such additional documentation as may be necessary to implement the street repairs and to oversee the contract for repairs of these Association subdivision streets.

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

PASSED: March 6, 2024

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

Ronald G. Messer
Ronald G. Messer, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon
Terrence M. Donnellon, Law Director

**AGREEMENT TO CONSTRUCT ROADWAY IMPROVEMENTS
WITHIN THE VINTAGE CLUB SUBDIVISION**

WHEREAS, the Vintage Club Subdivision is a private subdivision of streets, open spaces, and privately held lots situated within the City of Montgomery, Ohio ("City") and connected to the public street grid within the City; and

WHEREAS, the Vintage Club Subdivision community was developed in approximately 2008 when the access streets within the Vintage Club Subdivision were platted, engineered and constructed; and

WHEREAS, the Developer of Vintage Club Subdivision elected not to dedicate such streets as public streets, but such streets were engineered, designed and constructed to support vehicular traffic not only for property owners and their invitees, but for public services including public safety services; and

WHEREAS, the City annually contracts on a rotating basis to repair public roadways within the City through a process of public bidding; and

WHEREAS, The Vintage Club Community Association, Inc., an Ohio non-profit corporation ("Association"), is the titled owner of the various streets within the Vintage Club Subdivision, and the Association has requested through its Board of Trustees to Piggy-Back upon the City's 2024 Street Resurfacing Program contract with the John R. Jurgensen Company to allow the City through its Contractor to repair and repave certain improved streets within the Vintage Club Subdivision owned by the Association so that the repaired streets are properly constructed and improved to assure safe travel and public safety access to properties within the Subdivision; and

WHEREAS, in accordance with Chapter 727 of the Ohio Revised Code, the City has a right to assess the cost of street and curb improvements performed by the City against properties benefited by such work; and

WHEREAS, the Association has asked the City to serve as its Contractor and to consider this to be an assessment for the benefit of the property owners within the Association; and

WHEREAS, the Association does not want to impose liability upon the City nor to borrow against the City's credit, but consistent with the process for assessments, the Association agrees to facilitate the immediate payment of such improvements upon acceptance of the City's bid and construction of the Vintage Club street improvements.

NOW THEREFORE, with these premises in mind, the City of Montgomery, Ohio, an Ohio municipal corporation, and The Vintage Club Community Association, Inc., an Ohio non-profit corporation, hereby agree as follows:

1. The Association hereby contracts with the City to provide construction services to the Association to repair and repave certain streets within the Vintage Club Subdivision ("Street Repair Work"), including the following:

- A. Candlewood Circle
- B. A portion of Vintage Club Drive at or near West Cameo Court to Gas Light Lane
- C. A portion of Courtyard Crossing
- D. East Cameo Court and a portion of Village Gate Lane
- E. West Cameo Court and a portion of Village Gate Lane
- F. Traditions Turn

These street portions to be repaired and resurfaced are depicted upon **Exhibit A-1** and **Exhibit A-2** attached.

2. The engineering specifications for such Street Repair Work have been established by the City consistent with the City's standards for public improvements for such street resurfacing and repairs. The Association has reviewed the Bid Specifications prepared by the City and its engineering staff, or has had the opportunity through its own engineer to review such Bid Specifications, which Bid Specifications are hereby accepted by the Association. Based upon these Bid Specifications, the City has competitively bid the cost of such improvements. The Street Repair Work for the Vintage Club Subdivision has been identified as Bid Alternates 3 through 8 in the City's 2024 Street Resurfacing Project, and the City independently has determined that the bid received from the John R. Jurgensen Company in the total amount of One Hundred Seventy-Nine Thousand Three Hundred Dollars (\$179,300.00), which includes an appropriate contingency, is the lowest and best bid for such Street Repair Work. The City may award such resurfacing contract and shall oversee construction and inspection of such construction as a part of the 2024 Street Resurfacing Project. The City shall be responsible to review and accept such work consistent with the Bid Specifications on behalf of both the City and the Association.

3. The Association hereby agrees to deposit with _____ as Escrow Agent the cost of such Street Repair Work in the total amount of One Hundred Seventy-Nine Thousand Three Hundred Dollars (\$179,300.00), which includes a contingency of Five percent (5%), to assure prompt payment for the work as completed. The City, as necessary, may issue such Change Orders as needed to bring construction into compliance with the Bid Specification standards. The City in its sole discretion may accept such Change Orders and to the extent such Change Order applies to work within the Association streets, the Association shall be bound by such Change Order. To the extent the escrow funds are insufficient to pay the cost of the contract and any Change Orders awarded as a part of the contract, the Association shall immediately pay such

funds to the Escrow Agent upon notice from the City to the Association so that all funds are readily available to be drawn by the City during and at the close of the construction. Monies shall be drawn by the City from such Escrow Agent upon notice to the Association consistent with the City's schedule of payments as required under the Bid Specifications.

4. The Association hereby grants an irrevocable license to the City, its Bidders and Contractor, to enter into the Vintage Club Subdivision and to enter upon the streets and common areas held by The Vintage Club Community Association, Inc. for the purposes of evaluating and ultimately performing such Street Repair Work. Consistent with the terms of the Bid Specifications, the City and/or its Contractor shall restore any damage to property surrounding the work area caused by the performance of the Street Repair Work. As a part of this license, the City and its Contractor may store equipment and supplies upon the Association's property during the term of the construction. Consistent with the terms of the Bid Specifications, the City and the Contractor shall keep the Association streets open to traffic throughout the construction process. Any closures necessary shall be limited in time and scope, and the Contractor and/or the City shall provide notice to the Association in advance of such closures to minimize any disruption to access to the private properties within the Subdivision.

5. The Association hereby acknowledges that the City is required to publicly bid such Street Repair Work and to award a contract to the lowest and best Contractor. The discretion to award such bid to the lowest and best Contractor rests solely with the City. Further, the Association acknowledges that as part of a City funded contract, all work in conjunction with the construction must be paid at Prevailing Wage rates which may increase the actual cost of construction. The Association acknowledges that work upon its streets may not be exempted from Prevailing Wage since it is part of the City's contract.

6. The Association hereby warrants and represents to the City that it has authority to enter into this Agreement and all action has been taken consistent with the terms and conditions of the Homeowner's Association, its Declarations and Covenants, to enable its authorized officers to accept this Agreement and to bind the Association thereto. The Association, at the request of the City, shall provide a copy of the Board Resolution or other enabling documents to evidence such authority. Further, the Association warrants that it has either secured its own engineer to review and establish its Bid Specifications for this work and/or it accepts the bid and engineering specifications established by the City and waives any claim against the City acting in reliance upon these Bid Specifications.

7. Any dispute between the parties concerning this Agreement or the performance of this Agreement, and any claim against the City and/or Contractor as a result of the performance of this Agreement, shall be governed by the Dispute Resolution mechanisms set forth within the City's Agreement with the Contractor.

8. Any notices required by this Agreement or under the separate Construction Agreement must be in writing and will be deemed sufficiently given if actually received or

if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient has previously notified the sender of in writing. All notices will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

As to the City:	City of Montgomery, Ohio 10101 Montgomery Road Montgomery, Ohio 45242 Attn: City Manager Currently: Brian K. Riblet
With a copy to the Director of Law:	Currently: Terrence M. Donnellon Donnellon, Donnellon & Miller 9079 Montgomery Road Cincinnati, Ohio 45242
As to the Vintage Club Community Association, Inc.:	Vintage Club Community Association, Inc. _____ _____
With a copy to:	_____ _____ _____

9. This Agreement shall be interpreted and enforced consistent with the laws of the State of Ohio. As noted herein, the undersigned represent and warrant that they have full authority to execute this Agreement for and on behalf of their principals.

**The Vintage Club Community
Association, Inc.,
an Ohio non-profit corporation**

By: _____

Its: _____

Printed Name: _____

Date: _____

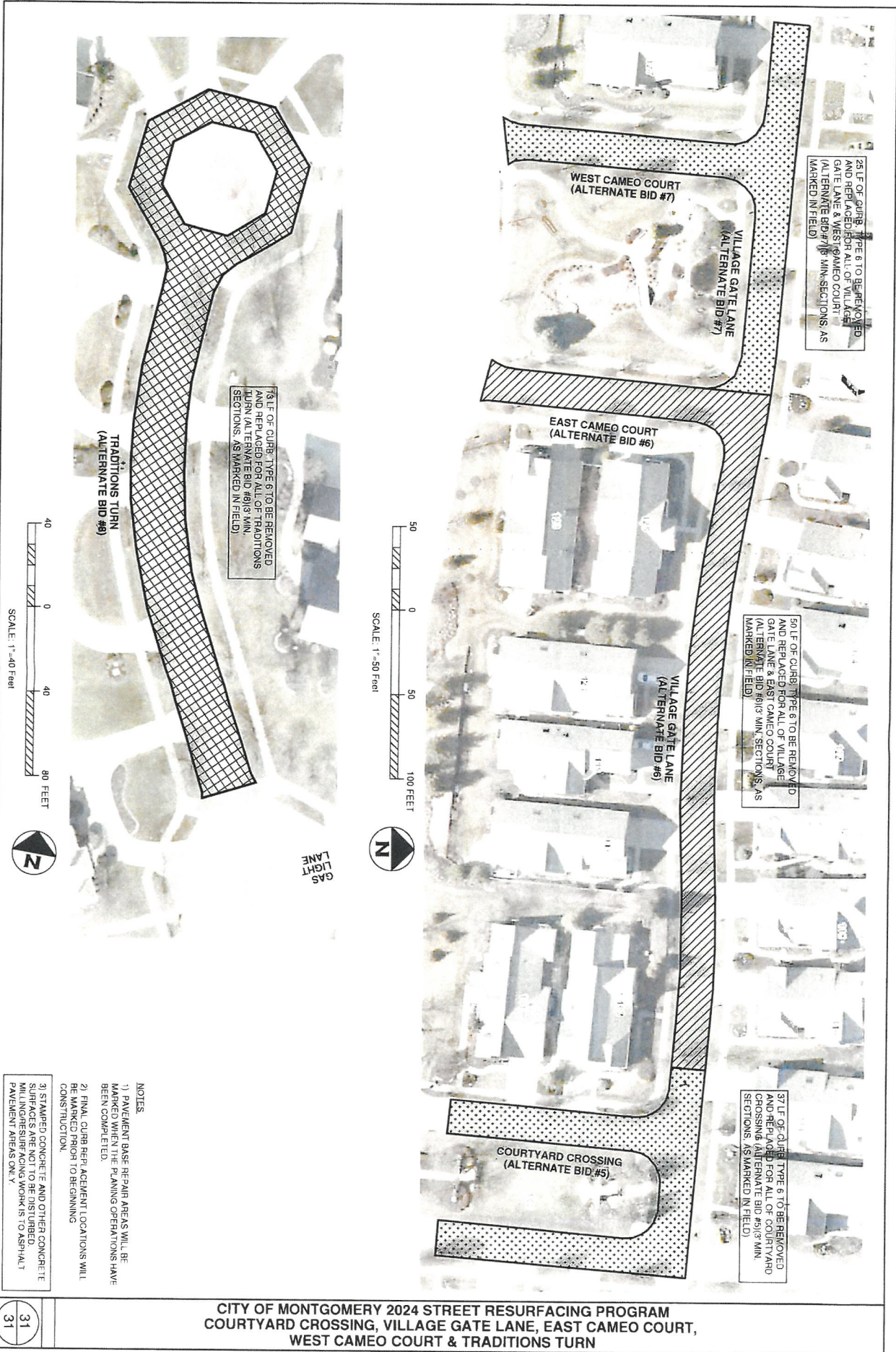
**The City of Montgomery, Ohio,
an Ohio municipal corporation**

By: _____
Brian K. Riblet

Its: City Manager

Date: _____





**CITY OF MONTGOMERY 2024 STREET RESURFACING PROGRAM
COURTYARD CROSSING, VILLAGE GATE LANE, EAST CAMEO COURT,
WEST CAMEO COURT & TRADITIONS TURN**