

ORDINANCE NO. 7093

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO THE FIRST AMENDMENT TO THE PROJECT SUPPORT AGREEMENT WITH THE MONTGOMERY COUNTY TRANSPORTATION IMPROVEMENT DISTRICT (TID) AND THE MIAMI CROSSING JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD) FOR AN OHIO DEPARTMENT OF TRANSPORTATION (ODOT) PROJECT FURTHER DESCRIBED AS PID #108619 LOCATED AT THE I-75 EXIT 44 INTERCHANGE AND DECLARING AN EMERGENCY.

WHEREAS, the City of Miamisburg (City), TID, and JEDD entered into a Project Support Agreement on January 8, 2024, to install sidewalk, pedestrian lighting, and retaining wall improvements at the I-75 Exit 44 interchange, known as ODOT PID #108619, in the City of Miamisburg; and

WHEREAS, the JEDD Board of Directors desired to renegotiate their share of future Project Payment Obligations to limit their exposure to potential project cost overruns and change orders; and

WHEREAS, the City of Miamisburg determined the project was of such importance to the travelling public that it will take on sole responsibility for any project cost overruns and change orders above and beyond \$200,000 in the aggregate; and

WHEREAS, it is necessary to immediately adopt the First Amendment to the Project Support Agreement to ensure the project moves forward on schedule.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIAMISBURG, STATE OF OHIO, TWO-THIRDS OF THE ELECTED MEMBERS THERETO CONCURRING THAT:

Section 1.

The City Manager is hereby authorized to enter into the First Amendment to the Project Support Agreement with the TID related to the proposed improvements at the I-75 Exit 44 interchange known as PID #108619. The First Amendment to the Project Support Agreement shall be substantially similar to the terms and conditions in the draft agreement included herein as Exhibit A.

Section 2.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare to allow the commencement of the proposed project in accordance

with the project schedule as dictated by ODOT. Therefore, this measure shall take effect and be in force from and after its passage.

Passed: July 16, 2024

Attested: 
Keysha Alexander, Clerk of Council

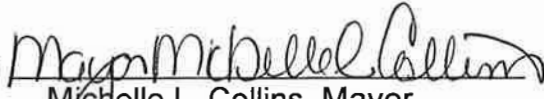
Approved: 
Michelle L. Collins, Mayor

EXHIBIT A

First Amendment to the I-75/SR-725 Pedestrian Improvements Project Support Agreement

**FIRST AMENDMENT TO 75/725 PEDESTRIAN IMPROVEMENTS
PROJECT SUPPORT AGREEMENT**

THIS FIRST AMENDMENT TO 75/725 PEDESTRIAN IMPROVEMENTS PROJECT SUPPORT AGREEMENT (this "**Amendment**") is made and entered into as of the ___ day of _____, 2024 (the "**Effective Date**"), by and between the **CITY OF MIAMISBURG, OHIO**, an Ohio municipal corporation (the "**City**"), the **MIAMI CROSSING JOINT ECONOMIC DEVELOPMENT DISTRICT**, an Ohio body corporate and politic (the "**JEDD**"), and the **MONTGOMERY COUNTY TRANSPORTATION IMPROVEMENT DISTRICT**, a transportation district and body corporate and politic duly organized and validly existing under the laws of the State of Ohio (the "**TID**") (the City, the JEDD, and the TID are sometimes referred to herein individually as "**Party**" and collectively as "**Parties**"), under the following circumstances:

- A. On or about _____, 2024, the Parties entered into that certain 75/725 Pedestrian Improvements Project Support Agreement (the "**Agreement**"); and
- B. The Parties now desire to amend the Agreement as set forth in this Amendment.

NOW THEREFORE, the Parties hereby amend the Agreement as follows:

- 1. **Modification to Project Payment Obligations.** Section 1 of the Agreement is hereby deleted in its entirety and replaced with the following:

"1. **The Project.** Provided the Local Jurisdictions comply with their obligations in this Agreement, the TID will serve as the LPA for the Project as set forth in the ODOT Legislation. It is the intention of the Parties that the TID act as a pass-through for the Local Jurisdictions related to the Project, and that the TID will have no direct monetary obligation to ODOT or otherwise in connection with the Project. As such, the Local Jurisdictions agree that they will be fully responsible for any payments required to be made by the TID in connection with the Project and/or under the ODOT Legislation, as fully as through the Local Jurisdictions were original parties thereto, including without limitation any local match requirement, as follows (collectively, the "**Project Payment Obligations**"):

A. As of the Effective Date, (i) the JEDD will be responsible to pay the TID \$264,500, and (ii) the City will be responsible to pay the TID \$400,810 (collectively, the "**Initial Project Obligations**"). The Parties acknowledge that some or all of the Initial Project Obligations have been paid to the TID as of the Effective Date. For purposes of clarity, the Initial Project Obligations are exclusive of the amounts paid or payable to the TID for fees and expenses as set forth in Section 3.

B. In addition to the Initial Project Obligations, any Project Payment Obligations incurred by the TID following the Effective Date, whether via change orders, awarded alternates, or otherwise, will be split 50/50 by the JEDD and the City up to \$200,000 in the aggregate. Any such amounts in excess of \$200,000 in the aggregate will be borne by the City.

C. Notwithstanding the foregoing, the JEDD will be solely responsible for all costs and expenses related to the test panel and formliner logo.

D. The TID will invoice the Local Jurisdictions for Project Payment Obligations from time to time. The Local Jurisdictions will pay each invoice upon receipt."

2. **Project Budget.** The Initial Project Obligations and TID fees and expenses are set forth in more detail in Exhibit A attached hereto.

3. **Fiscal Officer Certification.** The Fiscal Officer of each Local Jurisdiction hereby certifies that the monies required to meet the obligations of the Local Jurisdiction during the current fiscal year under the Agreement as amended hereby have been appropriated lawfully for that purpose, and are in the treasury of the Local Jurisdiction or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. Pursuant to Section 5705.44 of the Ohio Revised Code, the Fiscal Officer of each Local Jurisdiction covenants that any requirement herein of an expenditure of its Local Jurisdiction monies in any future fiscal year shall be included in the annual appropriation measure for that future fiscal year as a fixed charge. The certifications in this Section 3 are given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

4. **Miscellaneous.** Except as otherwise expressly provided in this Amendment, the Agreement is hereby ratified in its entirety and remains in full force and effect. Any capitalized word in this Amendment not defined in this Amendment will have the meaning given in the Agreement. This Amendment will be construed under the laws of the State of Ohio. This Amendment may be executed in any number of counterparts, each of which will be deemed an original and together will constitute a single instrument. Delivery of an executed counterpart of a signature page to this Amendment by facsimile, email or other electronic means is effective as delivery of a manually executed counterpart of this Amendment.

[Remainder of Page Intentionally Blank. Signature Page Follows.]

IN WITNESS WHEREOF, the Parties have executed this Amendment effective as of the Effective Date.

CITY OF MIAMISBURG, OHIO

By: _____

Name: _____

Title: _____

MIAMI CROSSING JOINT ECONOMIC DEVELOPMENT DISTRICT

By: _____

Name: _____

Title: _____

**MONTGOMERY COUNTY
TRANSPORTATION IMPROVEMENT
DISTRICT**

By: _____

Vanessa Glotfelter, Executive Director

CITY OF MIAMISBURG, OHIO FISCAL OFFICER (Section 3 only)

By: _____

Name: _____

MIAMI CROSSING JOINT ECONOMIC DEVELOPMENT DISTRICT FISCAL OFFICER (Section 3 only)

By: _____

Name: _____

Exhibit A

	Amount	Miamisburg	Miami Crossing JEDD
TID fee	\$25,000	\$12,500	\$12,500
Out of Pocket expenses (NTE \$5k)	\$5,000	\$2,500	\$2,500
ODOT Inv#11767	\$529,000	\$264,500	\$264,500
ODOT Inv#11767A	\$136,310	\$136,310	\$0
Total:	\$695,310	\$415,810	\$279,500

ORDINANCE NO. 7094

AN ORDINANCE TO AMEND PART TWELVE, TITLE SIX OF THE CODIFIED ORDINANCES TO ALLOW BARBER AND BEAUTY SHOP USES IN THE CENTRAL SERVICE DISTRICT (CSD-1) ZONING DISTRICT.

WHEREAS, the City of Miamisburg (City) received a Zoning Ordinance Change Application from Garrett Mendenhall, the perspective owner of a Barber Shop business at 130 N. First Street, included herein as Exhibit A; and,

WHEREAS, the subject property is zoned Central Service District (CSD-1) which prohibits Barber and Beauty Shop uses but permits by-right "Household Pet Grooming Establishments;" and,

WHEREAS, the grooming of humans and household pets is generally similar in nature, scope, and operation; and,

WHEREAS, the City finds Barber and Beauty Shops to be appropriate businesses to permit by-right throughout the CSD-1 zoning district; and,

WHEREAS, allowing Barber and Beauty Shop uses in the CSD-1 district would appear to offer another business opportunity within the zoning district while meeting the purpose and intent of the zoning code to protect the health, safety, and general welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIAMISBURG, STATE OF OHIO, TWO-THIRDS OF THE ELECTED MEMBERS THERETO CONCURRING THAT:

Section 1.

The Codified Ordinances of the City of Miamisburg are hereby amended as follows. Text to be removed is identified by ~~double strikethrough~~. Text to be added is identified in ***bold italics***.

Section 2.

Chapter 1262.02 of the Codified Ordinances, Permitted and Prohibited Uses in the CSD-1 District, is hereby amended as follows:

(a) The following uses are generally permitted in the CSD-1 District:

(19) Barber Shops.

(20) Beauty Shops.

~~20~~ ***(21)*** Accessory buildings in cooperation with the principal use.

Section 3.

This measure shall take effect and be in full force from and after the earliest period allowed by law.

Passed: _____

Attested: _____
Keysha Alexander, Clerk of Council

Approved: _____
Michelle L. Collins, Mayor

EXHIBIT A

Zoning Ordinance Change Application



Case No R2
 Date 8/19/2024

ZONING ORDINANCE CHANGE APPLICATION
Text Amendment
 Application Fee ~~\$150.00~~

By virtue of this application, the undersigned owner(s) hereby request a change in the zoning code language for the subject property as described below

- 1 Owner's Name Garrett Mendenhall Phone: 937-269-8033
 Address 532 Montgomery St City/State/Zip Miamisburg, OH 45342
 Email of Owner: cmendenhall64@gmail.com
- 2 Owner's Agent _____ Phone _____
 Address _____ City/State/Zip _____
 Email of Agent _____
- 3 Legal description of subject property: (City Lot #) _____
 (Address) 130 N 1st St, Miamisburg, OH 45342
- 4 Existing zoning: CSD-1 Proposed zoning CSD-1
- 5 Existing use Vacant Proposed use: Barber Shop
- 6 Supporting Information: The owner/agent must:

A List all those persons (including current addresses) having an interest in the subject property whose consent is required to authorize the processing of this application

Name (print)	Address
_____	_____
_____	_____
_____	_____

- B Narrative describing the purpose and intent of the proposed zoning code text amendment, why the text amendment is necessary, what benefit(s) the text amendment will provide to the City, general public, or business environment and how the text amendment will promote the goals and objectives of the City's comprehensive land use plan
- C Include two (2) copies of a plan of the site or property which triggered the request for a Zoning Code text amendment, showing the location(s) of all property lines, buildings, parking and loading areas, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities signs yards, schedule of development, and such other information as may be required to determine if the proposed text amendment meets the intent and requirements of this ordinance. See Chapters 1294 and 1296 of the Zoning Ordinance of Miamisburg, Ohio for information regarding site design standards for certain uses within the City of Miamisburg.
- D Attach the proposed text amendment, highlighting the proposed changes to the code, whether these changes include the addition of new text or the removal of existing text. This text amendment must be approved as to form by the Law Director of the City prior to bringing the amendment forward at a public meeting

The owner(s) and/or the owner's agent certify that the information contained herein, and any information provided as exhibits herewith, is correct. The owner(s) also by virtue of this request grants to those public officials/staff responsible for the review of this application, permission to inspect the subject property

NOTE: The fee (\$150.00) for this application is non-refundable

Signature of Agent: _____ Date _____

Signature of Owner: *Janet Mahall* Date 6/30/24

Sworn to and subscribed before me this 7th day of July 2024



Andrew E. Rodney
Notary Public, State of Ohio
My Commission Expires:
May 02, 2028

[Signature]
Notary Public

FOR OFFICE USE ONLY

Fee: _____

Received by: _____

Development / Planning / Inspection Departments
20 E. Central Ave. • Miamisburg, Ohio 45342
PH 937-847-6532 • FAX 937-847-6662 • develop@cityofmiamisburg.com

ORDINANCE NO. 7095

AN ORDINANCE TO ADOPT A 12 MONTH MORATORIUM ON ZONING MAP AMENDMENT APPLICATIONS WITHIN THE EAST CENTRAL AVENUE CORRIDOR FROM NORTH HEINCKE ROAD TO NORTH GEBHART CHURCH ROAD, AND DECLAINING AN EMERGENCY.

WHEREAS, on July 1, 2024, the City of Miamisburg (City) issued a Request for Proposal to conduct a land use study along E. Central Avenue from N. Heincke Road to N. Gebhart Church Road; and,

WHEREAS, the purpose of the study is to engage with the City Council, Planning Commission, City Staff, and property owners and residents along E. Central Avenue to develop a land use plan that guides future land use decision-making; and,

WHEREAS, the goal of the study is to ensure impending development in the project area meets the vision and objectives of the future land use plan; and,

WHEREAS, to fulfill the purpose and goal of the land use study it is necessary to enact this Moratorium to ensure no zoning map amendment is executed during the study period; and,

WHEREAS, the study is proposed to commence on or about October 1, 2024 and conclude approximately nine (9) months thereafter; and,

WHEREAS, this Moratorium may be extended by City Council to ensure it extends through the time period of adoption of the land use plan by City Council; and,

WHEREAS, it is necessary to immediately adopt this Moratorium as an emergency to ensure the health, safety, and general welfare of the community by allowing residents, landowners, City staff, Planning Commission, and City Council sufficient opportunity to study and comment on land use along the corridor through participation in the planned land use study.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIAMISBURG, STATE OF OHIO, TWO-THIRDS OF THE ELECTED MEMBERS THERETO CONCURRING THAT:

Section 1.

The City Council hereby places a 12-month Moratorium on new Zoning Map Amendment Applications within an area along East Central Avenue as depicted in Exhibit A and included herein.

Section 2.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare to allow the completion and adoption of a land use plan for the corridor. Therefore, this measure shall take effect and be in force from and after its passage.

Passed: July 16, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 
Michelle L. Collins, Mayor

EXHIBIT A

Map of Area Subject to the Moratorium



**AREA
SUBJECT TO
MORATORIUM**