

ORDINANCE NO. 7096

AN ORDINANCE TO ADOPT THE MIAMISBURG TRANSPORTATION PLAN AS THE MAJOR THOROUGHFARE PLAN FOR THE CITY OF MIAMISBURG, OHIO.

WHEREAS, the City of Miamisburg last adopted a Major Thoroughfare Plan in 1993; and

WHEREAS, the 1993 Major Thoroughfare Plan no longer serves as the visionary document for the maintenance and expansion of the City's transportation system; and

WHEREAS, the Miamisburg Transportation Plan proposes modern projects, policies, programs, and initiatives that ensure all users are adequately served by the City's transportation system; and

WHEREAS, these projects, polices, programs, and initiatives were vetted with the community via public meetings, online surveys, and data gathering exercises with guidance from a Steering Committee of local stakeholders and elected officials; and,

WHEREAS, the City of Miamisburg finds the Transportation Plan appropriate to serve as the guiding document for investments in the transportation network over the next 25 years;

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.

City Council hereby adopts the Miamisburg Transportation Plan as the City's Official Thoroughfare Plan.

Section 2.

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 3.

Chapter 1204.01 of the Codified Ordinances, Major Thoroughfare Plan, Adoption and Amendment by Reference, is hereby amended as follows:

(a) There is hereby adopted by and for the City the ***Miamisburg Transportation Plan as the Official Thoroughfare Plan***. ~~1993 Major Thoroughfare Plan for the City of Miamisburg, dated July, 1993.~~ The right to modify, alter or improve upon said Plan in appropriate circumstances in

accordance with Federal and State law and the Charter and ordinances of the City is hereby retained by **City** Council.

~~(b) (1) The amendments to remove a portion of Alexandersville Road, from Belvo Road south to Miamisburg Springboro Pike, to remove a portion of Byers Road, and to add a portion of Byers Road as a minor arterial, as approved by the Planning Commission, are hereby adopted and incorporated into the Major Thoroughfare Plan. Such amendments are attached to original Ordinance 5088, passed February 18, 1997, as Exhibits A, B and C.~~

~~(2) The amendments to add the proposed Austin Interchange, to remove a portion of Byers Road, and to add a portion of Byers Road, as approved by the Planning Commission, are hereby adopted and incorporated into the Major Thoroughfare Plan. Such amendments are attached to original Ordinance 5883, passed December 6, 2005, as Exhibits A, B and C.~~

~~(c)~~ **(b)** The amendment to the access management plan for State Route 741 is hereby adopted and incorporated into the Major Thoroughfare Plan. Such amendment is attached to original Ordinance 5169, passed August 19, 1997, as Exhibit A.

Section 4.

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

Miamisburg Transportation Plan, 2025-2050

ORDINANCE NO. 7097

AN ORDINANCE EXTENDING THE MORATORIUM ON ADULT USE CANNABIS OPERATORS WITHIN THE CITY OF MIAMISBURG, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, State Issue 2 enacted Ohio Revised Code Chapter 3780 which legalized the commercial growing, processing, and selling of cannabis (marijuana) for adult use in the State of Ohio and was effective on December 7, 2023; and

WHEREAS, for the purposes of this Ordinance, “adult use cannabis operator” has the same meaning as in State Issue 2 and Chapter 3780 of the Ohio Revised Code; and

WHEREAS, Ohio Revised Code Chapter 3780 authorizes municipalities to entirely prohibit or limit the number of adult use cannabis operators in their jurisdictions; and

WHEREAS, Article 18 of the Ohio State Constitution grants authority to municipalities to exercise all powers of local self-government, including the ability to control land use; and

WHEREAS, on December 5, 2023, City Council passed Ordinance No. 7053 enacting a moratorium on adult use cannabis operators within the City in order to study the benefits and consequences related to adult use cannabis operators within the City of Miamisburg and determine whether such activities should be allowed, limited, or entirely prohibited; and

WHEREAS, the State’s administrative rules are not fully completed and, to date, four bills have been introduced in the 135th Ohio General Assembly that, if enacted, would change Chapter 3780 and may in turn require changes to the State’s administrative rules regulating adult use cannabis operators; and

WHEREAS, given the current uncertainty in applicable State statutes and administrative rules, an extension of the moratorium is needed to allow additional time for City Council to continue studying whether adult use cannabis operators should be entirely prohibited in the City of Miamisburg or should be allowed with limitations; and

WHEREAS, City Staff also needs additional time for studying the issues and to develop recommendations for City Council on zoning, limiting, and/or prohibiting adult use cannabis operators so that any necessary regulations conform to the City’s goals and Strategic Plan and help ensure the public peace, health, safety, and welfare of its citizens;

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 moratorium imposed by Ordinance No. 7053 is extended for an additional 12 months, through September 5, 2025. During the moratorium, no adult use cannabis operators shall locate or operate in the City of Miamisburg and the issuance and processing of any permits or authorizations related to adult use cannabis operators in the City of Miamisburg is prohibited. The purpose of this extension is as stated in the recital paragraphs.


Section 2.

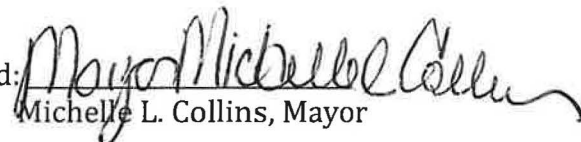
City Council instructs the City Manager and City Staff to continue their review of the law and related issues and to make recommendations for City Council's consideration.

Section 3.

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety, and general welfare of the citizens of Miamisburg and in order to institute an extension of the moratorium imposed by Ordinance No. 7053 before its expiration. Therefore, this Ordinance shall be effective immediately upon its adoption.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 
Michelle L. Collins, Mayor

ORDINANCE NO. 7098

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO CONTRACTS FOR THE PURCHASE OF VARIOUS EQUIPMENT AND VEHICLES THROUGH AN OHIO DEPARTMENT OF TRANSPORTATION (ODOT) STATE CONTRACT, THROUGH THE SOURCEWELL COOPERATIVE PURCHASING PROGRAM AND THROUGH THE NPP GOV COOPERATING PURCHASING PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio offers municipal governments discounted pricing and through the Ohio Department of Transportation (ODOT) has entered into a contract with International® to provide a dump truck; and

WHEREAS, the City is a member of the Sourcewell Cooperative Purchasing Program and Sourcewell has entered into separate contracts with Versalift to provide an aerial platform lift truck and with Jerry Pate Turf & Irrigation to provide golf maintenance equipment; and

WHEREAS, the City is a member of NPP Gov Cooperative Purchasing Program and NPP Gov has entered into a contract with Henderson Products, Inc. to provide snow equipment; and

WHEREAS, the replacement of various vehicles and equipment is within the City's 2024 Capital Improvement Plan;

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 execute a contract to purchase a 2025 HV607 dump truck from International® through an Ohio Department of Transportation contract at a total cost not to exceed \$104,231.56.

Section 2.

The City Manager is hereby authorized to execute a contract to purchase an aerial platform lift truck, model SST-40-EIH from Versalift through a Sourcewell purchasing cooperative contract at a total cost not to exceed \$174,663.00.

Section 3.

The City Manager is hereby authorized to execute a contract to purchase a Toro Groundsmaster 4500 from Jerry Pate Turf & Irrigation through a Sourcewell purchasing cooperative contract at a total cost not to exceed \$89,594.70 before freight costs.

Section 4.

The City Manager is hereby authorized to execute a contract to purchase a Toro Reelmaster 5610-D from Jerry Pate Turf & Irrigation through a Sourcewell purchasing cooperative contract at a total cost not to exceed \$90,846.60 before freight costs.


Section 5.

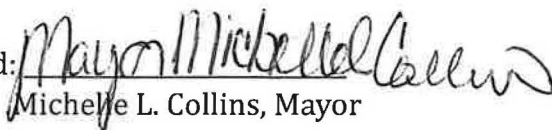
The City Manager is hereby authorized to execute a contract to purchase various snow equipment upfits for an International HV607 dump truck from Henderson Products through a NPP Gov purchasing cooperative contract at a total cost not to exceed \$118,918.00.

Section 6.

This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that this agreement is needed at the earliest possible date to preserve and maintain public utilities, therefore, this measure shall take effect and be in force from and after its passage.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 
Michelle L. Collins, Mayor

ORDINANCE NO. 7099

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF \$138,149.56 OF BONDS BY THE CITY OF MIAMISBURG, OHIO, TO PAY PART OF THE COST OF EQUIPMENT ACQUISITION AND DECLARING AN EMERGENCY.

WHEREAS, in order to provide for the safety and welfare of the citizens of the City, the City has determined to acquire certain equipment for the use of the municipal water system; and

WHEREAS, the fiscal officer of the City has estimated the life of the improvements hereinafter described as at least five (5) years and certified the maximum maturity of bonds as ten (10) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIAMISBURG (HEREIN THE "CITY"), COUNTY OF MONTGOMERY, OHIO, TWO-THIRDS OF THE ELECTED MEMBERS THERETO CONCURRING THAT:

Section 1.

That it is necessary to issue a bond of the City, in the principal sum of \$138,149.56, for the purpose of providing funds to pay the cost of acquiring equipment for the water system under the authority of the provisions of the Ohio Revised Code and the Uniform Public Securities Law thereof.

Section 2.

That said bond shall be in fully registered form, numbered R-1, shall be dated as of its date of issuance, and bear interest on the outstanding principal amount at the rates per annum set forth on Exhibit A attached hereto and incorporated herein, which the Finance Director has certified to be not in excess of a fair market rate of interest, payable annually on June 1 each year, commencing June 1, 2025, until the principal sum is paid. Said bond shall mature in installments as set forth on Exhibit A on June 1 of each year from 2025 through 2027, inclusive. The principal and interest on said bond shall be payable by check or draft to the registered holder thereof. Said bond shall be designated "Water System Equipment Acquisition Bonds, Series 2024."

Section 3.

That said bond shall be executed by the City Manager and Finance Director and shall bear the corporate seal of the City. Said bond shall be payable at the office of the Finance Director, City of Miamisburg, Ohio, and shall express upon its face the purpose for which it is issued and that it is issued in pursuance of this ordinance.

Section 4.

That said bond shall be sold by the Finance Director at par and accrued interest to the General Fund of the City, and the proceeds from such sale, except any premium or accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose. Premium and accrued interest, if any, shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on said bond in the manner provided by law.

Section 5.

That said bond shall be the full general obligation of this City, and the full faith, credit and revenue of this City are hereby pledged for the prompt payment of the same. Any excess funds resulting from the issuance of said bond shall, to the extent necessary, be used only for the retirement of said bond at maturity, together with interest thereon and is hereby pledged for such purpose.

Section 6.

That during the period while the bond runs, there shall be levied upon all of the taxable property in the City, within applicable limitations, in addition to all other taxes, a direct tax annually; said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund and, together with interest collected on the same, shall be irrevocably pledged for the payment of the principal and interest of the bond, when and as the same fall due; provided, however, to the extent other City monies are available and appropriated for such purpose said tax shall not be levied therefor.

Section 7.

This council hereby finds and determines that all formal actions relative to the adoption of this ordinance were taken in an open meeting of this council, and that all deliberations of this council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in compliance with the law.

Section 8.

All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such closing certificates, financing statements and other instruments or agreements as are, in the opinion of bond counsel, necessary to carry out the purposes of this ordinance.

Section 9.

That the firm of Dinsmore & Shohl LLP (“Dinsmore”), is hereby engaged as the City’s “bond counsel” pursuant to the engagement letter of Dinsmore on file with the City.


Section 10.

That this ordinance is hereby declared to be an emergency measure for the necessary preservation of the public peace, health, safety and welfare or for the urgent benefit or protection of the inhabitants of the City of Miamisburg, and for the reason that the immediate issuance of said bonds is necessary to provide funds for payment for the improvements hereinabove described, and shall take effect immediately upon its passage, pursuant to Section 4.08 of the Charter of the City of Miamisburg (hereafter called the “Charter”).

Section 11.

That the Clerk of Council is hereby directed to forward a certified copy of this ordinance to the County Auditor of Montgomery County, Ohio.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 
Michelle L. Collins, Mayor

CERTIFICATE OF MEMBERSHIP

The undersigned, Finance Director of the City of Miamisburg, Montgomery County, Ohio, hereby certifies that the following were the officers and members of council during the period when proceedings were taken authorizing the issuance of \$138,149.56 Water System Equipment Acquisition Bonds, Series 2024, dated as of August 13, 2024:

Mayor	<u>Michelle Collins</u>
City Manager	<u>Keith D. Johnson</u>
Finance Director	<u>Jennifer Johns</u>
Clerk of Council	<u>Keysha Alexander</u>
Member of Council	<u>Steve Beachler</u>
Member of Council	<u>Ryan Colvin</u>
Member of Council	<u>Sarah Clark Thacker</u>
Member of Council	<u>Mike McCabe</u>
Member of Council	<u>Tom Nicholas</u>
Member of Council	<u>Jeff Nestor</u>
Member of Council	<u>John Stalder</u>
Law Director	<u>Phil Callahan</u>

Finance Director

TRANSCRIPT CERTIFICATE

The undersigned, Clerk of Council of said municipality, hereby certifies that the following is a true and complete transcript of all proceedings relating to the authorization and issuance of the above-identified obligation.

Clerk of Council

CERTIFICATE AS TO MAXIMUM MATURITY OF BONDS

The undersigned, being the fiscal officer of the City of Miamisburg, County of Montgomery, Ohio, within the meaning of Section 133.01 of the Uniform Public Securities Law of the Ohio Revised Code, hereby certifies that the estimated life or period of usefulness of the improvement financed with the proceeds of the sale of \$138,149.56 of bonds, for the purpose of providing funds to pay the cost of acquiring equipment for the water system is at least five (5) years and that the maximum maturity of said bonds, in accordance with Section 133.20 of the Uniform Public Securities Law of the Ohio Revised Code, is ten (10) years.

IN WITNESS THEREOF, I have hereunto set my hand this __ day of August, 2024.

Finance Director

EXHIBIT A

<u>Date</u>	<u>Principal</u>	<u>Coupon</u>	<u>Interest</u>	<u>Period Total</u>
06/01/25	\$44,475.07	3.50%	\$3,868.19	\$48,343.26
06/01/26	46,031.69	3.50	3,278.61	49,310.30
06/01/27	<u>47,642.80</u>	3.50	<u>1,667.50</u>	<u>49,310.30</u>
Total	\$138,149.56		\$8,814.30	\$146,963.86

CERTIFICATE

The undersigned, Clerk of Council, Miamisburg, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 7099 adopted August 6, 2024.

Clerk of Council

CERTIFICATE

The undersigned, Finance Director, Miamisburg, Ohio, hereby certifies that Ordinance No. 7099 was filed with the County Auditor of Montgomery County, Ohio, on _____, 2024.

Finance Director

RECEIPT

The undersigned, County Auditor of Montgomery County, Ohio, acknowledges receipt of Ordinance No. 7099 of the City of Miamisburg, Ohio, on _____, 2024.

County Auditor

ORDINANCE NO. 7100

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF \$624,448.23 OF BONDS BY THE CITY OF MIAMISBURG, OHIO, TO PAY PART OF THE COST OF EQUIPMENT ACQUISITION AND DECLARING AN EMERGENCY.

WHEREAS, in order to provide for the safety and welfare of the citizens of the City, the City has determined to acquire certain equipment; and

WHEREAS, the fiscal officer of the City has estimated the life of the improvements hereinafter described as at least five (5) years and certified the maximum maturity of bonds as five (5) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIAMISBURG (HEREIN THE "CITY"), COUNTY OF MONTGOMERY, OHIO, TWO-THIRDS OF THE ELECTED MEMBERS THERETO CONCURRING THAT:

Section 1.

That it is necessary to issue a bond of the City, in the principal sum of \$624,448.23, for the purpose of providing funds to pay the cost of equipment acquisition under the authority of the provisions of the Ohio Revised Code and the Uniform Public Securities Law thereof.

Section 2.

That said bond shall be in fully registered form, numbered R-1, shall be dated as of its date of issuance, and bear interest on the outstanding principal amount at the rates per annum set forth on Exhibit A attached hereto and incorporated herein, which the Finance Director has certified to be not in excess of a fair market rate of interest, payable annually on June 1 each year, commencing June 1, 2025, until the principal sum is paid. Said bond shall mature in installments as set forth on Exhibit A on June 1 of each year from 2025 through 2029, inclusive. The principal and interest on said bond shall be payable by check or draft to the registered holder thereof. Said bond shall be designated "Equipment Acquisition Bonds, Series 2024."

Section 3.

That said bond shall be executed by the City Manager and Finance Director and shall bear the corporate seal of the City. Said bond shall be payable at the office of the Finance Director, City of Miamisburg, Ohio, and shall express upon its face the purpose for which it is issued and that it is issued in pursuance of this ordinance.

Section 4.

That said bond shall be sold by the Finance Director at par and accrued interest to the General Fund of the City, and the proceeds from such sale, except any premium or accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose. Premium and accrued interest, if any, shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on said bond in the manner provided by law.

Section 5.

That said bond shall be the full general obligation of this City, and the full faith, credit and revenue of this City are hereby pledged for the prompt payment of the same. Any excess funds resulting from the issuance of said bond shall, to the extent necessary, be used only for the retirement of said bond at maturity, together with interest thereon and is hereby pledged for such purpose.

Section 6.

That during the period while the bond runs there shall be levied upon all of the taxable property in the City, within applicable limitations, in addition to all other taxes, a direct tax annually; said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund and, together with interest collected on the same, shall be irrevocably pledged for the payment of the principal and interest of the bond, when and as the same fall due; provided, however, to the extent other City monies are available and appropriated for such purpose said tax shall not be levied therefor.

Section 7.

This council hereby finds and determines that all formal actions relative to the adoption of this ordinance were taken in an open meeting of this council, and that all deliberations of this council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in compliance with the law.

Section 8.

All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such closing certificates, financing statements and other instruments or agreements as are, in the opinion of bond counsel, necessary to carry out the purposes of this ordinance.

Section 9.

That the firm of Dinsmore & Shohl LLP ("Dinsmore"), is hereby engaged as the City's "bond counsel" pursuant to the engagement letter of Dinsmore on file with the City.

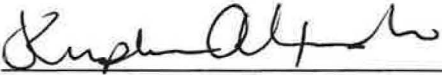
Section 10.

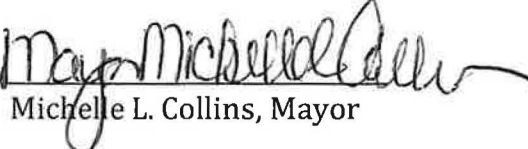
That this ordinance is hereby declared to be an emergency measure for the necessary preservation of the public peace, health, safety and welfare or for the urgent benefit or protection of the inhabitants of the City of Miamisburg, and for the reason that the immediate issuance of said bonds is necessary to provide funds for payment for the improvements hereinabove described, and shall take effect immediately upon its passage, pursuant to Section 4.08 of the Charter of the City of Miamisburg (hereafter called the "Charter").

Section 11.

That the Clerk of Council is hereby directed to forward a certified copy of this ordinance to the County Auditor of Montgomery County, Ohio.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 
Michelle L. Collins, Mayor

CERTIFICATE OF MEMBERSHIP

The undersigned, Finance Director of the City of Miamisburg, Montgomery County, Ohio, hereby certifies that the following were the officers and members of council during the period when proceedings were taken authorizing the issuance of \$624,448.23 Equipment Acquisition Bonds, Series 2024, dated as of August 13, 2024:

Mayor	<u>Michelle Collins</u>
City Manager	<u>Keith D. Johnson</u>
Finance Director	<u>Jennifer Johns</u>
Clerk of Council	<u>Keysha Alexander</u>
Member of Council	<u>Steve Beachler</u>
Member of Council	<u>Ryan Colvin</u>
Member of Council	<u>Sarah Clark Thacker</u>
Member of Council	<u>Mike McCabe</u>
Member of Council	<u>Tom Nicholas</u>
Member of Council	<u>Jeff Nestor</u>
Member of Council	<u>John Stalder</u>
Law Director	<u>Phil Callahan</u>

Finance Director

TRANSCRIPT CERTIFICATE

The undersigned, clerk of council of said municipality, hereby certifies that the following is a true and complete transcript of all proceedings relating to the authorization and issuance of the above-identified obligation.

Clerk of Council

CERTIFICATE AS TO MAXIMUM MATURITY OF BONDS

The undersigned, being the fiscal officer of the City of Miamisburg, County of Montgomery, Ohio, within the meaning of Section 133.01 of the Uniform Public Securities Law of the Ohio Revised Code, hereby certifies that the estimated life or period of usefulness of the improvement financed with the proceeds of the sale of \$624,448.23 of bonds, for the purpose of providing funds to pay the cost of equipment acquisition is at least five (5) years and that the maximum maturity of said bonds, in accordance with Section 133.20 of the Uniform Public Securities Law of the Ohio Revised Code, is five (5) years.

IN WITNESS THEREOF, I have hereunto set my hand this __ day of August, 2024.

Finance Director

EXHIBIT A

<u>Date</u>	<u>Principal</u>	<u>Coupon</u>	<u>Interest</u>	<u>Period Total</u>
06/01/25	\$115,867.55	3.75%	\$18,733.45	\$134,601.00
06/01/26	120,212.58	3.75	19,071.78	139,284.36
06/01/27	124,720.55	3.75	14,563.80	139,284.35
06/01/28	129,397.57	3.75	9,886.78	139,284.35
06/01/29	<u>134,249.98</u>	3.75	<u>5,034.37</u>	<u>139,284.35</u>
Total	\$624,448.23		\$67,290.18	\$691,738.41

CERTIFICATE

The undersigned, Clerk of Council, Miamisburg, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 7100 adopted August 6, 2024.

Clerk of Council

CERTIFICATE

The undersigned, Finance Director, Miamisburg, Ohio, hereby certifies that Ordinance No. 7100 was filed with the County Auditor of Montgomery County, Ohio, on _____, 2024.

Finance Director

RECEIPT

The undersigned, County Auditor of Montgomery County, Ohio, acknowledges receipt of Ordinance No. 7100 of the City of Miamisburg, Ohio, on _____, 2024.

County Auditor

ORDINANCE NO. 7101

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE GRILL BY HERITAGE FOR CONCESSIONS SERVICES AT RICE FIELD AND DECLARING AN EMERGENCY.

WHEREAS, the City of Miamisburg has received a proposal for professional concessionaire services at Rice Field; and

WHEREAS, Jaqua's Event and Tent, dba The Heritage Grill will compensate the City a percentage of gross revenue for the ability to provide these services; and

WHEREAS, Jaqua's Event and Tent, dba The Heritage Grill will be accountable and responsible for day-to-day operations of concessions operations, including staffing, sales, customer service, cleaning, machine/equipment maintenance and upkeep, inventory and bookkeeping;

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.

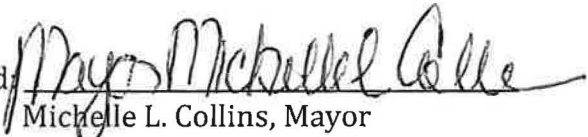
The City Manager is hereby authorized to execute a Professional Services Agreement for the provision of concessionaire services at Rice Field, pursuant to the terms and conditions of the contract as the City Manager deems appropriate attached thereto.

Section 2.

This measure is hereby declared to be an emergency necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that this agreement is needed at the earliest possible date in order to ensure the operations are able to be prepared for season openings, therefore, this measure shall be in force from and after its passage.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 

Michelle L. Collins, Mayor

"Exhibit A"

AGREEMENT

This Agreement is entered into this _____ day of _____, 2024 by and between the City of Miamisburg, Ohio, hereinafter referred to as the "City" located at 10 N. First St., Miamisburg, OH 45342 and The Grill by Heritage of Jaqua's Event and Tent of 7255 Poe Ave; Dayton, OH 45414, hereinafter referred to as the "Concessionaire."

WITNESSETH

Whereas, the parties hereto desire to enter into an agreement for the purpose of determining their respective rights and responsibilities relating to the Concessionaire's exclusive use of the City concession facilities located at Rice Field at 2001 Dayton-Cincinnati Pike, Miamisburg, OH 45342

TERMS

1. The term of this agreement shall be for the fall of 2024 and the entirety of 2025 commencing on August 12, 2024 and ending on November 15, 2025
2. The Concessionaire will have the exclusive right to use the City's Concession Facility located at 2001 Dayton-Cincinnati Pike during the baseball/softball recreational league season which starts on August 23, 2024. This right will last through the 2025 season which shall last from Friday, August 23, 2024 until Saturday, November 15, 2025 unless the parties jointly agree that the Fall 2025 season be extended.
 - a. The City reserves the right to bring in additional concessionaires to operate outside of the concession facility.
3. The Concessionaire shall pay the City a fee based upon the gross revenue (total amounts collected less sales tax) generated by the Concessionaire at the City's concession facilities. This fee shall be calculated based on the gross revenue for each calendar week using the following percentages for the length of this contract:
 - a. If gross weekly ball field concession revenue is greater than \$4,999, the Concessionaire shall pay the City ten percent (10%) of gross concession revenue (total amounts collected from ball field concession facility less sales tax).
 - b. If gross weekly ball field concession revenue is less than or equal to \$4,999, Concessionaire shall pay the City eight percent (8%) of gross concession

revenue (total amounts collected from ball field concession facility less sales tax).

- c. Gross weekly concession revenue shall be calculated from Monday through the following Sunday.

CONCESSIONAIRE RESPONSIBILITIES

1. The Concessionaire shall maintain detailed daily records indicating the amount of gross revenue received daily for concession sales. Using the daily sales records, the Concessionaire shall total the daily gross receipts for sales for each week as defined herein. The Concessionaire shall then submit to the City the recap of the daily sales records for each week by the end of day Wednesday of the following week.
 - a. The City shall have access to the Concessionaire's general ledger, and other accounting records it deems necessary to determine the amount due.
 - b. At any time deemed necessary, the City shall be permitted to conduct an audit of the revenues to determine the amount of the monthly payment due the City under the terms of this agreement.
2. The Concessionaire shall submit monthly payments to the City for the monthly amount due based on the appropriate gross revenue percentages as seen in the daily sales record reports by the 15th of the following month.
 - a. For Example, the amount due at the end of May based on the daily sales record reports shall be paid to the City by June 15.
3. The Concessionaire shall supply during the baseball/softball season at their sole cost and expense total concession operations which includes but is not limited to staffing, inventory, and equipment.
 - a. Permits and licenses will be in the Concessionaire's name and all associated expenses will be paid by the Concessionaire.
 - b. The Concessionaire shall post the current and up-to-date licenses and certifications in a visible spot of the concession stand.
4. The Concessionaire shall only allow approved staff members to enter the concession stand.
 - a. The Concessionaire agrees that all staff members shall wear appropriate working attire that is in compliance with Concessionaire work attire guidelines while working at the concession stand.

5. The Concessionaire shall staff the concession stand for all dates when 3 or more youth games are scheduled to be played on any one day.
 - a. Concession stand shall be open for business starting 30 minutes prior to the first scheduled game and remain open until the end of the last scheduled game.
6. The Concessionaire shall accept credit card payments at the concession stand facility.
7. The Concessionaire shall be responsible for working with any vendor in a pre-existing exclusive use agreement with the City.
8. The Concessionaire shall maintain, during the season, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Concessionaire's operations hereunder.
 - a. Commercial General Liability (CGL) insurance covering CGL on an occurrence basis, including products and completed operations, bodily injury, property damage, and personal & advertising injury with limits not less than \$1,000,000 per occurrence. The CGL policy shall cover the City of Miamisburg, its elected and appointed officials, employees and volunteers as additionally insured with respect to the Concessionaire's operations hereunder. The Concessionaire's coverage shall be primary and non-contributing as respects the City of Miamisburg, its elected and appointed officials, employees, and volunteers.
 - b. Worker's Compensation in accordance with Ohio Law.
 - c. The Concessionaire shall provide the City with a certificate of insurance evidencing compliance with the requirements herein, at the time of signing this contract, and at least 14 days prior to the opening of the facility of each year of the agreement. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
9. The Concessionaire shall provide the City with the menu and price structure 14 days prior to the opening of each respective facility. The Concessionaire shall maintain a menu and price structure as approved by the designated City contact.
 - a. No Alcoholic, tobacco, or glass products shall be sold.
 - b. No chewing gum shall be sold.

10. The Concessionaire shall be responsible for working within the limits of any pre-existing exclusive service agreements between the City and other service providers.
11. Following each season, the City and Concessionaire agree to meet and review the completed season's activities, working relationship, and plan for the upcoming season's activities and needs. During that time, based upon mutual consent, this Agreement may be modified or amended.
 - a. Meetings shall happen after the following seasons:
 - i. Fall 2024
 - ii. Spring 2025
 - iii. Fall 2025
12. The Concessionaire is responsible for securing the facility by the locking of all building doors upon the completion of Concessionaire activities each day.
 - a. Any damage incurred to the building structures or amenities due to the negligence of the Concessionaire in securing the facility shall result in the Concessionaire being financially responsible for any damage that occurs to the property, building structures, or amenities.
13. The Concessionaire is responsible for all costs of maintenance and repair of damage to the physical structure of buildings, amenities, landscaping, and property that is caused by Concessionaire activities or negligence on the part of the Concessionaire.
 - a. Failure to maintain the properties and facilities that the Concessionaire is responsible for as described in this agreement will result in charges to the Concessionaire in an amount no less than the market rate for maintenance of the areas in question as determined by the City. The Concessionaire is expected to maintain the facility in accordance with established maintenance standards. The City has sole discretion for determining the desired maintenance standards for the property.
14. The Concessionaire shall indemnify, hold, and save harmless the City from any and all liability arising out of the Concessionaire's use of the concession facility, including the payment of reasonable attorney fees.
15. The Concessionaire covenant and agree as follows:

- a. The Concessionaire and all employees of the Concessionaire will use and occupy the premises in a careful, safe, and proper manner and will maintain the facility in a clean and sanitary manner.
 - b. The Concessionaire will not assign this Agreement, nor any rights conveyed hereunder, nor sublet said premises nor any part thereof without prior written approval by the City.
 - c. That all property in said building or upon said premises shall be at the sole risk of the Concessionaire. All property of the Concessionaire shall be removed within 21 days of vacating the property or the property will be declared abandoned.
 - d. Not to use, occupy, suffer, or permit said premises or any part thereof to be used or occupied for any purpose contrary to law on the rules or regulations of any public authority or in any so as to increase the cost of hazard insurance to the City.
 - e. Not to use or store in any manner, hazardous substances upon the designated premises.
 - f. Surrender and deliver up said premises at the end of said term in as good order and condition as the same now, are, or may be put by the City, reasonable use and natural wear and tear or unavoidable casualty excepted.
16. In the event said payment hereinabove provided, or any part thereof, shall at any time be in arrears and unpaid for a period of 30 days past the due date; or if the Concessionaire shall fail to keep and perform any of the covenants and conditions of this agreement on Concessionaire's part to be kept or performed, or if said Concessionaire shall abandon or vacate said premises during the term thereof, or shall make an assignment for the benefit of creditors, or if the interest of Concessionaire in the demised premises shall be sold under the execution or other regular process, or if Concessionaire shall be adjudged bankrupt, or if a receiver shall be appointed for Concessionaire by any court, the City may at the City's election, after the City has given Concessionaire written notice by Certified Mail Return Receipt Requested or by personally delivering said notice to Concessionaire at Concessionaire's said address, or said default or breach of agreement, at any time thereafter while such condition exists, cancel, and terminate this Agreement, and the City may enter upon said premises and again have, repossess and enjoy same as if this Agreement had not been made. Thereupon this Agreement and everything herein contained on the part of the City to be kept shall cease and terminate.

CITY RESPONSIBILITIES

1. The City hereby agrees that if the Concessionaire shall perform each and every one of the covenants, undertakings and agreements contained herein to be performed by the Concessionaire, the Concessionaire shall during the term hereof, freely, peaceably and quietly enjoy the use of the property for said food service purposes without molestation, hindrance, eviction, or disturbance by the City or persons under its control.
2. The City shall oversee the maintenance and upkeep of all building systems and infrastructure including but not limited to HVAC, restrooms, electric, and plumbing.
3. The City shall give the Concessionaire access to view the events and activities scheduled for Rice Field via the master schedule that is built for Rice Field.
 - a. The City shall keep the schedule as up-to-date as possible with the understanding that many events and activities can be changed due to weather and other unforeseen circumstances.
4. The City shall administer keys to the Concessionaire according to the needs of the Concessionaire for the facility.
 - a. The Concessionaire shall be responsible for collecting keys from individuals that are no longer representatives of the Concessionaire and return them to the City.
5. The City is responsible for securing the facility by the locking of all building doors upon the completion of City associated activities.
 - a. Any damage incurred to the property, building structures, or amenities due to the negligence of the City in securing the facility shall result in the City being financially responsible for any damage that occurs to the property or building structures.

TERMINATION OF AGREEMENT

1. Either party may terminate this Agreement at any time by giving a minimum of thirty (30) days advanced written notice of its intention to terminate for the other party's failure to comply with the terms and conditions hereof.
2. Either party may terminate this Agreement at any time, for any purpose, by giving a minimum sixty (60) days advance written notice of its intent. No waiver of any such covenant in the Agreement, or of any breach of any such covenant or condition shall be taken to constitute a waiver of any subsequent breach of covenant or condition, or to justify or authorize the nonobservance on any other occasion of the same or of any other covenants, or conditions hereof. The City

shall have the right to terminate this Agreement as to any part of the property upon sixty (60) days advance written notice to the Concessionaire.

LIABILITY

1. The Concessionaire agrees to defend, indemnify and hold harmless the City, its officers, employees, agents and volunteers against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the City, its officers or employees may hereafter sustain, incur or be required to pay, arising wholly or in part due to any act or omission of the Concessionaire, its agents, servants or employees, in the execution, performance or failure to adequately perform the Concessionaire's obligations pursuant to this Agreement. The Concessionaire further agrees to assume all risks of loss, damage or injury caused by whatever kind, or whomsoever caused (other than loss, damage or injury caused by any act or omission of the City, its employees, agents or volunteers) to any person(s) or the property of the parties, or anyone on or about the property.

In witness whereof, the parties hereto have set their hands to duplicates on the day and year first above written.

The Grill by Heritage

Jaqua's Event and Tent
(CONCESSIONAIRE)

CITY OF MIAMISBURG
(CITY)

By: _____
Adrian Jaqua, Owner

By: _____
Keith D. Johnson, City Manager

Date: _____ 2024

Date: _____ 2024

Witness: _____

Witness: _____

Date: _____ 2024

Date: _____ 2024

ORDINANCE NO. 7102

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A FACILITY USE AGREEMENT WITH THE MIAMISBURG WEE VIKES AND DECLARING AN EMERGENCY.

WHEREAS, the city owns the property, located at 412 North Ninth Street Medlar Road, Miamisburg, Ohio 45342, known as the Beachler Park; and

WHEREAS, the Miamisburg Wee Vikes have long been party to agreements authorizing its use of City facilities; and

WHEREAS, the Miamisburg Wee Vikes have expressed interest in continuing to utilize the grounds of Beachler Park for their organizations' operations and use; and

WHEREAS, the City is supportive of the value the Miamisburg Wee Vikes affords to the community in its provision of youth recreational soccer opportunities.

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 a Facility Use Agreement with the Miamisburg Wee Vikes for the use of City owned facilities, attached hereto as Exhibit "A".

Section 2.

This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that this agreement is needed at the earliest possible date to ensure a clear understanding and permission to utilize and continue utilizing said spaces for the Miamisburg Soccer Association operations and functions, this measure shall take effect and be in force from and after its passage.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved: 
Michelle L. Collins, Mayor



Exhibit A

AGREEMENT

THIS AGREEMENT, made by and between the CITY OF MIAMISBURG, hereinafter called the "City" and the MIAMISBURG WEE VIKES, hereinafter called the "Association" entered on _____, 2024.

WITNESSETH

WHEREAS, the City owns certain property as described in this agreement; and

WHEREAS, the Association desires to use such property for the purposes herein contained, the City and the Association agree as follows:

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the City and the Association agree as follows:

USE

1. The City hereby grants permission to the Association to use turf grass areas, concessions and restroom building, storage buildings, and parking lot of Beachler Park and Field located at 412 North 9th Street, Miamisburg, Ohio and hereinafter called the "Property", as shown in exhibit "A".
2. The purpose of the use of the turf areas, concessions and restroom building, storage buildings, and parking lot is for access to execute the operations of the Association activities in providing a youth football program for the community of Miamisburg.
3. All City park rules and regulations and City parking regulations will be in effect.

TERMS

This agreement shall be for the term of three (3) years, commencing on August 1, 2024 and expiring on August 1, 2027.

On an annual basis, the City and Association agree to meet and review the completed year's activities, working relationship, and plan for the upcoming year's activities and needs. At this time, based upon mutual consent, this agreement may be modified or amended.

Amendments, including additions and exclusions to this agreement will be determined by mutual agreement before the commencement of each season no later than February 1st of each year of the agreement.

At the conclusion of the three (3) year term and upon written agreement by both parties, the Association may extend the Term for three (3) additional years utilizing the same terms and conditions contained herein.

TERMINATION OF AGREEMENT

1. Either party may terminate this Agreement at any time by giving a minimum of six month's advance written notice of its intent. No waiver of any such covenant in the Agreement, or of any breach of any such covenant or condition shall be taken to constitute a waiver of any subsequent breach of covenant or condition, or to



justify or authorize the nonobservance on any other occasion of the same or of any other covenants, or conditions hereof.

2. Either party may terminate this Agreement at any time by giving a minimum of sixty (60) days advanced written notice of its intention to so terminate for the other party's failure to comply with the terms and conditions hereof.

ASSOCIATION RESPONSIBILITIES

1. The Association shall maintain and keep the property and all buildings in a safe and healthy condition according to the local ordinances and direction of the proper public officers during the term of this agreement. The Association shall not permit the same to be used for any unlawful purposes; and shall conform to and obey all existing and future laws, ordinances, and regulations of the United States, and of the state and local organizations of the place of property, subdivision and agencies thereof, and of the City, respecting the property and use thereof.
2. The Association agrees that the improvements for the benefit of the property and/or buildings are to be made at the Association's expense and without cost to the City, unless otherwise agreed to in writing by the parties.
 - a. No improvements, including, but not limited to interior building maintenance, exterior building maintenance, utilities, building structures, lighting, irrigation, signage, fence work, tree and brush removal, turf grass, and location of parking lots shall be completed without prior written approval by the City and the Parks and Facilities Superintendent.
 - i. Temporary improvements such as removable storage units, temporary fencing, signage, and items of the like may be added to the facility with prior written approval by the City.
 - ii. The City's approval shall not be unreasonably withheld.
 - b. Upon termination of this agreement all improvements become part and parcel of the property, excluding the temporary improvements which are to be removed by the Association and at its expense, except by prior written agreement of the parties to the contrary.
3. The Association agrees to assume the responsibility of scheduling Beachler Field for Association activities.
 - a. The Association shall provide the City a facility use schedule for practices, games, tournaments, clinic dates, and other Association events along with an overall field layout of the facility by July 15 for each fall season.
4. The Association agrees to incur the cost for materials and/or services for field lining, goal posts, portable restrooms, trash collection/removal, and any other expenses relating to the execution of Association business.
5. The Association shall not assign or transfer this agreement or sublet any portion thereof without the prior written consent of the City.
6. The Association shall not allow any non-Association uses of the premises without the prior written consent of the City.
7. The City requires that Board Members, all Coaches and Officials undergo background checks prior to participation in Association activities.

- a. The City recommends that Association board members, coaches, officials, and parents are provided an understanding of the various aspects of providing youth sports programs.
8. The Association agrees that any publicity concerning the subject matter of this agreement may not be conducted without the prior approval of the City.
9. The Association will provide a list of current Board members and will keep the City apprised of any changes to the executive board (President, Vice-President, Treasurer) and if unfilled vacancies exist on the Board. The Association will notify the City of the current schedule of Board and General membership meetings.
 - a. The Association shall designate one individual to serve as liaison between the City and the Association. The designee will coordinate needs and uses with the Athletic Operations Supervisor or designee.
10. The Association agrees that the City may always enter upon the property to make inspections of the property. The Association agrees to provide the Athletic Operations Supervisor with a current list of contact people with telephone numbers and email addresses for property or building issues or questions.
11. The Association is responsible for securing the facility by the locking of all building doors and/or gates upon the completion of Association activities each day.
 - a. Any damage incurred to the property, building structures, or amenities due to the negligence of the Association in securing the facility shall result in the Association being financially responsible for any damage that occurs to the property or building structures.
12. The Association is responsible for all costs of maintenance and repair of damage to the physical structure of buildings, amenities, landscaping, and property that is caused by Association activities or negligence on the part of the Association.
 - a. Failure to maintain the properties and facilities that the Association is responsible for as described in this agreement will result in charges to the Association in an amount no less than the market rate for maintenance of the areas in question as determined by the City. The Association is expected to maintain the facility in accordance with established maintenance standards. The City has sole discretion for determining the desired maintenance standards for the property.
13. The Association is required to provide an annual registration and budget summary to the City annually.
 - a. This report should be turned in no later than December 15 of each calendar year.
14. The Association is required to verify and show proof of their 501c3 non-profit status to the City annually.

CITY RESPONSIBILITIES

- 1.** The City hereby agrees that if the Association shall perform each one of the covenants, undertakings and agreements contained herein to be performed by the Association, the Association shall during the term hereof, freely, peaceably and quietly enjoy the use of the property for said public purposes without molestation, hindrance, eviction, or disturbance by the City or persons under its control.
- 2.** The City agrees to maintain the parks and facilities as they were utilized as a passive park without Association activities.
 - a.** The City shall mow, trim, and maintain the parks and facilities during Association use times as an active park. This includes mowing and trimming around goals, bleachers, trash cans, buildings, dumpsters, tree lines, grills, playgrounds, and any additional structures, either permanent or temporary, that may be in place.
- 3.** The City shall oversee the maintenance and upkeep of all building systems and infrastructure including but not limited to HVAC, restrooms, electric, and plumbing.
- 4.** The City shall provide maintenance to repair facility amenities such as the parking lot, security lights, field lighting, fencing, signs, and playground areas as City funds allow.
- 5.** The City shall administer keys to the Association according to the needs of the Association for the facility.
 - a.** The Association shall be responsible for collecting keys from individuals that are no longer representatives of the Association and return them to the City.
- 6.** The City is responsible for securing the facility by the locking of all building doors and/or gates upon the completion of City associated activities.
 - a.** Any damage incurred to the property, building structures, or amenities due to the negligence of the City in securing the facility shall result in the City being financially responsible for any damage that occurs to the property or building structures.
- 7.** The City shall coordinate all facility usage at the City's discretion and will schedule all Association activities as a top priority.
 - a.** The City will coordinate any non-Association activities with the Association and confirm that such activities will not conflict with scheduled Association activities or jeopardize facility conditions for Association activities.

LIABILITY

- 1.** The Association agrees to defend, indemnify and hold harmless the City, its officers, employees, agents and volunteers against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the City, its officers or employees may hereafter sustain, incur or be required to pay, arising wholly or in part due to any act or omission of the Association, its agents, servants or employees, in the execution, performance or failure to adequately perform the Association's obligations pursuant to this Agreement. The Association further agrees to assume all risks of loss, damage or injury caused by whatever kind, or whomsoever caused (other than loss, damage or injury caused by any act or omission of the City, its employees, agents or volunteers) to any person(s) or the property of the parties, or anyone on or about the property.
- 2.** The Association agrees to obtain at its own cost and expense comprehensive general liability insurance acceptable to the City, with limits no less than \$1,000,000 per occurrence for bodily injury and property damage, including participant liability, products completed operations, personal injury and advertising injury; and the Association shall, at the time of the execution of this agreement, furnish the City with a satisfactory certificate of such insurance, providing for a (10) ten day advance written notice of cancellation. However, failure to obtain the required documents shall not waive the Association's obligation to provide them. The City, its officers, employees and volunteers shall be named as an additional insured there under. For any claims related to this Agreement, the Association's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees or volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Association's insurance and shall not contribute with it. The Association shall further require the same insurance coverage and conditions from any subsequent lessee or assignee of the property.

ENFORCEABILITY

1. If any provision of this Agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, it shall be ineffective only to the extent of such prohibition, and the validity and enforceability of all the remaining provisions shall not be affected thereby and shall be ratified by action of the Council of the City of Miamisburg where appropriate to become enforceable.
2. This Agreement shall be governed by and construed under the laws of the State of Ohio.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on this _____ day of _____, 2024.

MIAMISBURG WEE VIKES
(ASSOCIATION)

CITY OF MIAMISBURG
(CITY)

By: _____
Tijuane Martin
League President

By: _____
Keith D. Johnson
City Manager

Date: _____ 2024

Date: _____ 2024

Witness: _____

Witness: _____

Date: _____ 2024

Date: _____ 2024

ORDINANCE NO. 7103

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH PARKVIEW CHURCH OF MIAMISBURG, OHIO, FOR THE USE OF SUNFLOWER PARK AND DECLARING AN EMERGENCY.

WHEREAS, Parkview Church is the owner of certain real property consisting of 6.00 acres having Parcel ID No. K46 01713 0002 and wishes to lease the property to the City of Miamisburg; and

WHEREAS, the City of Miamisburg is interested in leasing the aforementioned parcel to maintain Sunflower Park and the surrounding area as a park space, open to the public; and

WHEREAS, both the City and the Church have agreed to complete a purchase agreement for the sale of the aforementioned parcel from the Church to the City at or around the completion of this lease;

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 execute a lease agreement with Parkview Church of Miamisburg, Ohio, pursuant to the terms and conditions of the contract as the City Manager deems appropriate attached thereto.

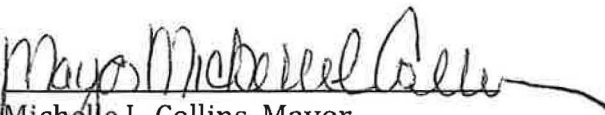
Section 2.

This measure is hereby declared to be an emergency necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that this agreement is needed at the earliest possible date in order to continue maintenance and public access of Sunflower Park, therefore, this measure shall be in force from and after its passage.

Passed: August 6, 2024

Attested: 
Keysha Alexander, Clerk of Council

Approved:


Michelle L. Collins, Mayor

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is entered into this _____ day of _____, 2024 (the “Effective Date”), between **PARKVIEW CHURCH OF MIAMISBURG, OHIO** (“Landlord”), and the **CITY OF MIAMISBURG, OHIO** (“Tenant”), under the below conditions. For good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **PREMISES.** Landlord is the owner of certain real property consisting of 6.00 acres and having parcel id no. K46 01713 0002, as shown on Exhibit A attached to this Lease (the “Premises”). Landlord leases the Premises to Tenant pursuant to the terms and conditions of this Lease.

2. **TERM.** The term of this Lease starts on the Effective Date and will end on _____, 2025.

3. **RENT.** Tenant will pay to Landlord as rent for the lease of the Premises Twenty Thousand Dollars (\$20,000.00), which will be paid upon the parties’ full signature of this Lease.

4. **USE.** Tenant will use the Premises as a green space area and park that is open to the public. Tenant will comply with all laws, statutes and ordinances in its use of the Premises. Tenant will take care of all mowing and vegetation control at the Premises and maintain the shelter situated on the Premises in good condition.

5. **REAL ESTATE TAXES AND ASSESSMENTS.** Landlord will pay all real estate taxes and assessments for the Premises, if any, that are due and payable during the term of this Lease.

6. **INSURANCE.** Tenant will maintain liability insurance for the Premises in amounts Tenant deems reasonable and will have Landlord listed as an additional insured under Tenant’s liability policy.

7. **DEFAULT.** Tenant will be in default of this Lease if (a) Tenant fails to make punctual payment of any amount to be paid under this Lease by Tenant, and the failure continues for ten (10) days after Landlord notifies Tenant in writing of the failure to make the payment; (b) Tenant fails to maintain at all times insurance required of Tenant under this Lease; or (c) Tenant fails to perform or observe any other covenant or condition to be performed or complied with by Tenant under this Lease and the failure continues for thirty (30) days after Tenant’s receipt of written notice from Landlord of such failure, or if the default is of such a nature that it cannot be completely cured or remedied within the 30-day period, Tenant fails to commence curing the default during the 30-day period, or does not thereafter, with reasonable diligence and in good faith, proceed to remedy or cure the default. In the event of Tenant's default, Landlord has the right to terminate this Lease, and with process of law, remove all persons by force or otherwise, without being liable in damages for this removal, and, upon demand by Landlord, Tenant will surrender complete and peaceable possession of the Premises.

8. NOTICES. All notices, requests, demands and other communications required or permitted under this Lease must be in writing and will be deemed to be duly given upon delivery or mailing, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid:

To Landlord: Parkview Church of Miamisburg, Ohio
3713 Benner Road
Miamisburg, OH 45342
Attn: _____

To Tenant: City of Miamisburg
20 East Central Avenue
Miamisburg, Ohio 45342
Attn: Ryan Davis

or to such other address that Landlord or Tenant has specified by notice to the other.

9. LEGAL CONSTRUCTION. This Lease will be construed under the laws of the State of Ohio. If any one or more provisions are held by a court to be invalid, void, illegal, or unenforceable in any respect, such invalidity, voidness, illegality, or unenforceability will not affect any other provision, and this Lease will be construed as if such invalid, void, illegal, or unenforceable provision had never been contained in this Lease, and all other provisions will remain in effect. This Lease constitutes the sole and entire agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties; provided however, Landlord and Tenant have entered into a separate Real Estate Purchase and Sale Agreement dated the same date as this Lease. No amendment, modification, or alteration of the terms of this Lease will be binding unless it is in writing and duly executed by the parties.

The parties have signed this Lease as of the date stated at the beginning of this Lease.

LANDLORD:

TENANT:

PARKVIEW CHURCH OF MIAMISBURG, OHIO

CITY OF MIAMISBURG, OHIO

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A

