

RESOLUTION NO. 38 , 2020

**A RESOLUTION FINDING THAT PUBLIC SAFETY PERSONNEL ARE
SUBSTANTIALLY DEDICATED TO MITIGATING OR RESPONDING TO THE
COVID-19 PUBLIC HEALTH EMERGENCY**

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136 (the CARES Act) was signed into law by the President of the United States on March 27, 2020; and

WHEREAS, in House Bill 481 of the 133rd General Assembly (HB 481), the Ohio General Assembly established a process for distributing funds provided by the CARES Act; and

WHEREAS, HB 481, required political subdivisions receiving funds under Section 1 of the CARES Act, to pass a Resolution affirming that funds from the County Coronavirus Relief Distribution Fund may be expended only to cover costs of the political subdivision consistent with the requirements of Section 5001 of the CARES Act as described in 42 U.S.C. 801(d), and any applicable regulations before receiving said funds; and

WHEREAS, on July 1, 2020, this Council adopted Resolution 21, 2020 and affirmed that all funds received from the Hamilton County Coronavirus Relief Distribution Fund pursuant to HB 481 be expended only to cover costs of the City of Montgomery consistent with the requirements of Section 5001 of the CARES Act as described in 42 U.S.C. 801(d) and any applicable regulations and guidance; and

WHEREAS, the Ohio Office of Budget and Management (OBM), in its Guidance & Frequently Asked Questions, updated August 28, 2020 (OBM Guidance), directed local jurisdictions to “evaluate all proposed expenditures based on guidance

contained within the U.S. Department of Treasury Guidance and Coronavirus Relief Fund Frequently Asked Questions”; and

WHEREAS, the OBM Guidance further advised that “it is presumed for administrative convenience that personnel costs related to public safety are substantially dedicated” for purposes of the CARES Act unless the Chief Executive of the entity receiving the funds determines otherwise; and

WHEREAS, the United States Department of Treasury (Treasury), in its Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Governments, dated September 2, 2020 (Treasury Guidance), advised that “[p]ayroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency” are eligible expenditures of CARES Act funds; and

WHEREAS, the Treasury Guidance further advised that local governments may presume that “public health and public safety employees meet the substantially dedicated test, unless the Chief Executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020”; and

WHEREAS, the Treasury Guidance further advised that “public safety employees” include “police officers (including state police officers), sheriffs and deputy

sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel".

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

SECTION 1. In reliance on the Treasury Guidance and OBM Guidance and having examined the circumstances of the City of Montgomery, this Council finds and determines that the Treasury presumption that City of Montgomery public safety employees, specifically employees of the Police and Fire Departments, meet the substantially dedicated test and no specific circumstances rebut the presumption. This Council further finds and determines that all full and part-time employees in the City of Montgomery Police and Fire Departments are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Therefore, current and future distributions of CARES Act funds to the City of Montgomery may be expended to cover the payroll and benefits of Police and Fire Departments' employees.

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

PASSED: November 4 2020

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

Christopher P. Dobrozsi
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon
Terrence M. Donnellon, Law Director