

October 14, 2022

TO: Mayor and City Council Members  
FROM: Brian K. Riblet, City Manager *BKR*  
SUBJECT: City Council Work Session of Wednesday, October 19, 2022

As a reminder, City Council is scheduled to meet in Work Session on Wednesday, October 19 at 7:00 p.m.

Work Session

1. Call to Order
2. Roll Call
3. Special Presentations
  - a. Representatives from Hotel California by the Sea will be present to be introduced to City Council and to give a brief summary of their services in addictions treatment
  - b. Stephanie Dumas, current Hamilton County Commissioner, will provide an update to City Council on her current re-election campaign
4. Guest and Residents
5. Legislation for Consideration this Evening
6. Establishing an Agenda for November 2, 2022 Business Session

Pending Legislation

- a. An Ordinance Accepting Dedicated Streets Within The City—(Mr. Cappel-3<sup>rd</sup> Reading) Information has been previously supplied on this Ordinance that, if approved, would formally accept various streets within the City of Montgomery which have been dedicated for public use but had never been properly accepted. Several years ago, we updated the Hamilton County records to reflect various streets within the City which had been dedicated on the various subdivision plats. However, the Developer had not followed through to have the streets accepted after construction was complete.

*Add this Ordinance to the November 2, 2022 Business Session with adoption of the Ordinance requested at that meeting.*

- b. An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of Montgomery, State of Ohio During the Fiscal Year Ending December 31, 2023—(Mr. Suer- 2<sup>nd</sup> Reading) Information has been previously supplied on this Ordinance that, if approved, would establish the City's budget for fiscal year 2023. These documents were presented to and reviewed with City Council at the September 15 Budget Review meeting.

*Add this Ordinance to the November 2, 2022 Business Session for second reading. The third reading of the Ordinance will be held at the December 7, 2022 Business Session with adoption of the Ordinance requested at that meeting.*

- c. An Ordinance for The Allocation of Earnings Tax Revenues and Amending Section 44.14 of The Montgomery Code of Ordinances—(Mr. Suer-2<sup>nd</sup> Reading) Information has been previously supplied on this Ordinance that, if approved, would adjust the allocation of the City's Earnings Tax Revenues. The current allocation is: 80% of Earnings Tax revenues to the General Fund and 20% to the Capital Improvement Fund. The proposed reallocation would provide 75% of the Earnings Tax revenues to the General Fund, 20% to the Capital Improvement Fund and 5% to the General Bond Retirement Fund.

*Add this Ordinance to the November 2, 2022 Business Session for second reading. The third reading of the Ordinance will be held at the December 7, 2022 Business Session with adoption of the Ordinance requested at that meeting.*

### New Legislation

- a. A Resolution Accepting the Transfer of Real Property from the Montgomery Community Improvement Corporation and Designating such property as a Municipal Park and Recreation Area—Please see the attached correspondence from Terry Donnellon, Law Director requesting that City Council consider approving this Resolution that, if approved, will designate the Montgomery Quarter Park as parkland, and consistent with the grant from ODNR states that we must maintain it as parkland for a minimum of 15 years. This is the companion legislation to the recent Resolution passed by The Montgomery Community Improvement Corporation completing the transfer of the Montgomery Quarter Park from the MCIC to the City. The City has been working to develop the Park, which is near completion, and the City will need to own the Park as a Public Improvement. Our Code requires when we receive property that we designate it for its specific purpose. There is no plan at this time to transfer the Park for any other purpose than a public park.

*Add this Resolution to the November 2, 2022 Business Session agenda, assign it to a City Council member for reading, and consider adoption of the Resolution that evening.*

- b. A Resolution Authorizing A Contract With Patented Acquisition Corporation D/B/A Think Patented For Design And Production Services— Please see the attached correspondence from Matthew Vanderhorst, Community and Information Specialist requesting that City Council consider approving this Resolution that, if approved, would authorize the City Manager to extend the current contract with Think Patented for the 2023 fiscal year for the design and printing of the Montgomery Bulletin and City Calendar. The current annual cost for the Montgomery Bulletin and City Calendar is estimated to be approximately \$62,000 by the end of 2022. The estimated cost for 2023 is \$65,414.

*Add this Resolution to the November 2, 2022 Business Session agenda, assign it to a City Council member for reading, and consider adoption of the Resolution that evening.*

- c. An Ordinance Terminating Assessments For The Reserve Of Montgomery And Declaring An Emergency—Please see the attached correspondence from Chris Bigham, Interim Finance Director requesting that City Council consider approving this Ordinance that, if approved, would terminate Assessment #38-613 for the Reserve of Montgomery that was established in 1994 and was paid off early by the City of Montgomery due to the refinancing of bonds issued at a lower interest rate for the assessment. Any balance in the fund would be refunded to the property owners.

*Add this Ordinance to the November 2, 2022 Business Session for first reading held at the meeting. It is requested that the rules requiring three readings be suspended at that meeting and the Ordinance be considered for passage as an emergency.*

- d. A Resolution Authorizing The City Manager To Execute A Capital Improvement Community Park, Recreation/Conservation Project Pass-Through Grant Agreement With The Ohio Department Of Natural Resources—Please see the attached correspondence from Brian Riblet, City Manager, requesting that City Council consider approving this Resolution that, if passed, would authorize a grant agreement with ODNR for grant funds associated with construction of a public park within the Montgomery Quarter project site.

*Add this Resolution to the November 2, 2022 Business Session agenda, assign it to a City Council member for reading, and consider adoption of the Resolution that evening.*

7. Administration Report
8. Law Director Report
9. City Council Member Reports
  - a. Mr. Cappel

- b. Vice Mayor Bissmeyer
- c. Mr. Dobrozsi
- d. Mrs. Naiman
- e. Mr. Suer
- f. Mr. Messer
- g. Mayor Margolis

10. Approval of Minutes- Public Hearing and Business Session from October 5, 2022

11. Other Business

12. Executive Session

13. Adjournment

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

C: Connie Gaylor, Executive Assistant  
Department Heads  
Terry Donnellon, Law Director

October 19, 2022  
City Hall  
7:00 p.m.

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6. Establishing an Agenda for the November 4, 2022 Business Session

Pending Legislation

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*Add this Ordinance to the November 4, 2022 Business Session for third reading with adoption of the Ordinance requested at that meeting.*
- b. An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of Montgomery, State of Ohio During the Fiscal Year Ending December 31, 2023—(Mr. Suer- 2<sup>nd</sup> Reading)  
*Add this Ordinance to the November 2, 2022 Business Session for second reading. The third reading of the Ordinance will be held at the December 7, 2022 Business Session with adoption of the Ordinance requested at that meeting.*
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- d. A Resolution Authorizing The City Manager To Execute A Capital Improvement Community Park, Recreation/Conservation Project Pass-Through Grant Agreement With The Ohio Department Of Natural Resources

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## 8. Law Director Report

## 9. City Council Member Reports

- a. Mr. Cappel
- b. Vice Mayor Bissmeyer
- c. Mr. Dobrozsi
- d. Mrs. Naiman
- e. Mr. Suer
- f. Mr. Messer
- g. Mayor Margolis

## 10. Approval of Minutes- October 5, 2022 Public Hearing and Business Session

11. Other Business

12. Executive Session

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

C: Connie Gaylor, Executive Assistant  
Department Heads  
Terry Donnellon, Law Director

**ORDINANCE NO.                   , 2022**

**AN ORDINANCE ACCEPTING DEDICATED STREETS WITHIN THE CITY**

**WHEREAS**, by Ordinance 6, 2016, recorded in Hamilton County Official Records at Book 13356, Page 02025, the City did accept various streets throughout the community which had been dedicated in various subdivision plats filed with the City and the County, but had not been properly documented as accepted; and

**WHEREAS**, in a comprehensive review of streets within the City, it was discovered that there were additional dedicated, but not accepted streets within the City, which parcels were dedicated by the subdivision developer, but remained in the name of the subdivision developer; and

**WHEREAS**, Council does desire by enacting this Ordinance to take the appropriate steps to accept these streets which have been inspected and recommended for acceptance by the Director of Public Works.

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

**SECTION 1.** The following parcels identified in the records of the Hamilton County Auditor and properly dedicated on a recorded plat for the City of Montgomery are hereby accepted as public improvements to be retained and maintained by the City of Montgomery, Ohio:

<b><u>Parcel No.</u></b>	<b><u>Subdivision</u></b>	<b><u>Record Owner</u></b>
603-0014-0093	Fairwind Acres	Hare Kett Development Co.
603-0023-0333	Reserve of Montgomery	Traditions Investments I, Inc.
603-0023-0347	Reserve of Montgomery	Traditions Investments I, Inc.
603-0023-0411	Reserve of Montgomery	Traditions Investments I, Inc.
603-0024-0358	Tanager Woods	Simpson Creek Construction Co.
603-0025-0059	Weller Station	Murphy Development Co.



**SECTION 2.** The City Manager or his designee is authorized to execute such additional documentation as may be necessary to implement the dedication and acceptance of these public streets.

**SECTION 3.** The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the Auditor and Recorder of Hamilton County, Ohio to place these Ordinances of public record to allow the books and records of Hamilton County, Ohio to show that the portion of these streets are now dedicated to public use and are hereby accepted by the City of Montgomery.

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

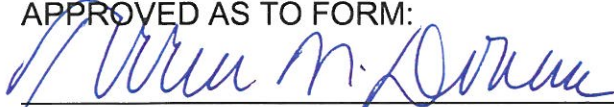
**SECTION 5.** This Ordinance shall take effect the earliest opportunity as allowable by law.

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:

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

ORDINANCE NO. \_\_\_\_\_, 2022

**AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF MONTGOMERY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2023**

**WHEREAS**, Council previously did approve and submit to the Budget Commission a Budget for revenues and expenses for the fiscal year commencing January 1, 2023 and ending December 31, 2023; and

**WHEREAS**, the proposed Budget has been accepted and approved, and Council does desire to appropriate funds according to the Budget to meet current expenses and other expenditures for the 2023 fiscal year.

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

**SECTION 1.** Commencing January 1, 2023 and for the fiscal year ending December 31, 2023, in order to provide for the current expenses and other expenditures of the City, the sums detailed on the attached Budget schedule are hereby appropriated as if such schedule is fully set forth herein.

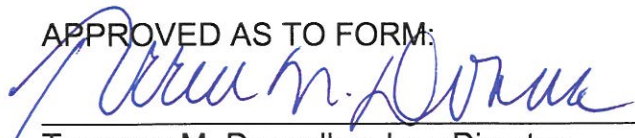
**SECTION 2.** This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:

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

## Attachment to 2023 Appropriation Ordinance

General Fund		
101 Police Department	Personnel	3,971,201
	Nonpersonnel	359,300
	<b>Total</b>	<b>\$4,330,501</b>
106 Disaster Services	Personnel	0
	Nonpersonnel	9,300
	<b>Total</b>	<b>\$9,300</b>
201 Public Health and Welfare	Personnel	59,000
	Nonpersonnel	0
	<b>Total</b>	<b>\$59,000</b>
301 Recreation	Personnel	276,506
	Nonpersonnel	109,974
	<b>Total</b>	<b>\$386,480</b>
303 City Parks	Personnel	370,346
	Nonpersonnel	332,500
	<b>Total</b>	<b>\$702,846</b>
317 Swaim and Terwilliger Lodges	Personnel	0
	Nonpersonnel	51,100
	<b>Total</b>	<b>\$51,100</b>
321 Special Events	Personnel	0
	Nonpersonnel	132,000
	<b>Total</b>	<b>\$132,000</b>
405 Landmarks Commission	Personnel	0
	Nonpersonnel	14,250
	<b>Total</b>	<b>\$14,250</b>
406 City Beautiful	Personnel	0
	Nonpersonnel	164,386
	<b>Total</b>	<b>\$164,386</b>
407 Development	Personnel	440,580
	Nonpersonnel	618,900
	<b>Total</b>	<b>\$1,059,480</b>
408 Planning Commission	Personnel	0
	Nonpersonnel	142,400
	<b>Total</b>	<b>\$142,400</b>
409 Historical Building Operations	Personnel	0
	Nonpersonnel	49,400
	<b>Total</b>	<b>\$49,400</b>
701 City Administration	Personnel	729,206
	Nonpersonnel	39,300
	<b>Total</b>	<b>\$768,506</b>
702 Finance Department	Personnel	706,469
	Nonpersonnel	127,737
	<b>Total</b>	<b>\$834,206</b>
703 Legal Administration	Personnel	0
	Nonpersonnel	240,500
	<b>Total</b>	<b>\$240,500</b>

705 City Council	Personnel	11,496
	Nonpersonnel	18,000
	<b>Total</b>	<b>\$29,496</b>
707 Mayor's Court	Personnel	35,136
	Nonpersonnel	75,500
	<b>Total</b>	<b>\$110,636</b>
708 Civil Service Commission	Personnel	0
	Nonpersonnel	5,150
	<b>Total</b>	<b>\$5,150</b>
709 Public Works Administration	Personnel	617,707
	Nonpersonnel	163,800
	<b>Total</b>	<b>\$781,507</b>
712 Community and Information Services	Personnel	414,396
	Nonpersonnel	149,600
	<b>Total</b>	<b>\$563,996</b>
715 General Government	Personnel	10,000
	Nonpersonnel	2,733,125
	<b>Total</b>	<b>\$2,743,125</b>
<b>Total General Fund Transfers/Cash Advances Out</b>		<b>542,550</b>
<b>Total General Fund</b>	Personnel	7,642,043
	Nonpersonnel	5,536,222
	<b>Total</b>	<b>13,178,265</b>

**Special Revenue Funds**

219 Community Oriented Policing Solutions	Personnel	153,868
	Nonpersonnel	3,650
	<b>Total</b>	<b>\$157,518</b>
220 Law Enforcement Assistance Fund	Personnel	1,000
	Nonpersonnel	1,000
	<b>Total</b>	<b>\$2,000</b>
223 Fire Department	Personnel	4,235,173
	Nonpersonnel	1,970,819
	<b>Total</b>	<b>\$6,205,992</b>
261 Street Maintenance and Repair	Personnel	784,296
	Nonpersonnel	369,938
	<b>Total</b>	<b>\$1,154,234</b>
209 Memorial Fund	Personnel	0
	Nonpersonnel	6,500
	<b>Total</b>	<b>\$6,500</b>
210 Parks & Recreation	Personnel	0
	Nonpersonnel	500
	<b>Total</b>	<b>\$500</b>
215 Law Enforcement	Personnel	0
	Nonpersonnel	354,500
	<b>Total</b>	<b>\$354,500</b>
216 Drug Enforcement	Personnel	0
	Nonpersonnel	400
	<b>Total</b>	<b>\$400</b>

217 DUI Enforcement and Education	Personnel	0
	Nonpersonnel	10,500
	<b>Total</b>	<b>\$10,500</b>
218 Mayor's Court Technology Fund	Personnel	0
	Nonpersonnel	10,325
	<b>Total</b>	<b>\$10,325</b>
222 Pandemic Relief Fund	Personnel	0
	Nonpersonnel	350,000
	<b>Total</b>	<b>\$350,000</b>
227 Environmental Impact Area I	Personnel	0
	Nonpersonnel	8,000
	<b>Total</b>	<b>\$8,000</b>
228 Environmental Impact Area II	Personnel	0
	Nonpersonnel	125,150
	<b>Total</b>	<b>\$125,150</b>
229 Environmental Impact Area III	Personnel	0
	Nonpersonnel	10,000
	<b>Total</b>	<b>\$10,000</b>
230 Environmental Impact Area IV	Personnel	0
	Nonpersonnel	5,000
	<b>Total</b>	<b>\$5,000</b>
265 State Highway Fund	Personnel	0
	Nonpersonnel	41,000
	<b>Total</b>	<b>\$41,000</b>
266 Permissive MVL Fund	Personnel	0
	Nonpersonnel	77,000
	<b>Total</b>	<b>\$77,000</b>
275 Municipal Pool	Personnel	0
	Nonpersonnel	275,778
	<b>Total</b>	<b>\$275,778</b>
485 Arts and Amenities	Personnel	0
	Nonpersonnel	99,250
	<b>Total</b>	<b>\$99,250</b>
<b>Total Special Revenue Funds</b>	Personnel	5,174,337
	Nonpersonnel	3,719,310
	<b>Total</b>	<b>8,893,647</b>

**Debt Service Funds**

324 General Bond Retirement	Personnel	0
	Nonpersonnel	260,677
	<b>Total</b>	<b>\$260,677</b>
328 Reserve Bond Retirement	Personnel	0
	Nonpersonnel	389,029
	<b>Total</b>	<b>\$389,029</b>
329 Montgomery Quarter TIF Fund	Personnel	0
	Nonpersonnel	1,217,197
	<b>Total</b>	<b>\$1,217,197</b>
331 Vintage Club TIF Fund	Personnel	0
	Nonpersonnel	2,818,422

	<b>Total</b>	<b>\$2,818,422</b>
332 Vintage Club North TIF Fund	Personnel	0
	Nonpersonnel	481,955
	<b>Total</b>	<b>\$481,955</b>
<b>Total Debt Service Funds</b>	Personnel	0
	Nonpersonnel	5,167,280
	<b>Total</b>	<b>5,167,280</b>

**Capital Projects Funds**

410 Capital Improvements	Personnel	0
	Nonpersonnel	4,460,167
	<b>Total</b>	<b>\$4,460,167</b>
460 Heritage District Fund (Urban Redevelopment)	Personnel	0
	Nonpersonnel	49,000
	<b>Total</b>	<b>\$49,000</b>
461 Triangle Equivalent TIF Fund	Personnel	0
	Nonpersonnel	172,000
	<b>Total</b>	<b>\$172,000</b>
463 Vintage Club Capital Construction Fund	Personnel	0
	Nonpersonnel	300,000
	<b>Total</b>	<b>\$300,000</b>
465 Montgomery Quarter Roundabout Fund	Personnel	0
	Nonpersonnel	26,400
	<b>Total</b>	<b>\$26,400</b>
480 Downtown Improvements	Personnel	0
	Nonpersonnel	1,200,550
	<b>Total</b>	<b>\$1,200,550</b>
<b>Total Capital Projects Funds</b>	Personnel	0
	Nonpersonnel	6,208,117
	<b>Total</b>	<b>6,208,117</b>

**Fiduciary Funds**

546 Trust Reimbursements	Personnel	0
	Nonpersonnel	100,000
	<b>Total</b>	<b>\$100,000</b>
601 State Fees	Personnel	0
	Nonpersonnel	17,000
	<b>Total</b>	<b>\$17,000</b>
840 Cemetery Expendable Trust	Personnel	0
	Nonpersonnel	71,850
	<b>Total</b>	<b>\$71,850</b>
890 Unclaimed Moneys Fund	Personnel	0
	Nonpersonnel	1,000
	<b>Total</b>	<b>\$1,000</b>
<b>Total Fiduciary Funds</b>	Personnel	0
	Nonpersonnel	189,850
	<b>Total</b>	<b>189,850</b>

**Total All Funds**

Personnel	12,816,380
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Nonpersonnel

20,820,779

**Total**

**33,637,159**

ORDINANCE NO. \_\_\_\_\_, 2022

**AN ORDINANCE FOR THE ALLOCATION OF EARNINGS TAX REVENUES  
AND AMENDING SECTION 44.14 OF THE MONTGOMERY CODE OF ORDINANCES**

**WHEREAS**, Section 44.14 of the Montgomery Code of Ordinances provides for the allocation of earnings tax revenues to certain uses and purposes; and

**WHEREAS**, the City's evolving financial condition warrants a current re-examination of the earnings tax allocation to more accurately reflect operating, capital improvement and debt service needs of the City.

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

**SECTION 1.** Section 44.14 of the Montgomery Code of Ordinances is hereby amended to read as follows commencing fiscal year 2023:

**Section 44.14 Allocation Of Funds**

The funds collected under the provision of this chapter shall be disbursed for the following purposes:

- (A) 5% to the General Bond Retirement Fund;
- (B) 20% to the Capital Improvement Fund;
- (B) 75% to the General Fund for the purpose of general municipal operations

**SECTION 2.** The Operating Budget for fiscal year 2022 shall be adjusted appropriately to reflect the same apportionment of the allocation of funds as outlined in Section 1 above, collected from earnings tax revenues during the fiscal year. The reallocation shall be reflected in the Amended Appropriations enacted by City Council.



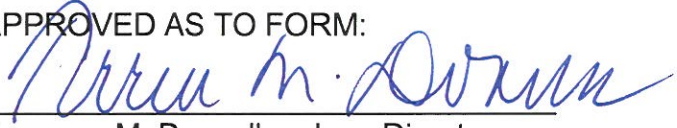
**SECTION 3.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

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

TO: City Council  
Montgomery CIC Board of Trustees

FROM: Terrence M. Donnellon

RE: Transfer of Public Park Property

DATE: October 12, 2022

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As you may recall, the entire Montgomery Quarter site was consolidated and transferred to The Montgomery Community Improvement Corporation (MCIC) prior to initiating development and subdividing the property, which subsequently was sold in part to the Development Team. At that time the MCIC retained Lot 2F, which is the site of the public park, and dedicated the street grid in Stage 1. MCIC still holds the property at the south end of the Project until a development plan is put in place for Stage 2.

The Development Agreement executed between the City, MCIC and Gateway Partners Montgomery, LLC obligates the City to complete certain Project Site Public Improvements. The streetscape/landscape improvements included development of the public park. The public park was identified as a part of the Master Development Plan for the Project Site.

The Board of Trustees of The Montgomery Community Improvement Corporation approved a Purchase and Sale Agreement at its meeting September 18, 2019. The Purchase and Sale Agreement obligated MCIC to re-convey a portion of the property to the City necessary to complete the Public Improvements. The Board of Trustees of the MCIC at its recent meeting authorized the Executive Director to transfer this lot to the City to complete the terms of the Purchase Agreement and Development Agreement.

This legislation completes the process to transfer Lot 2F, the site of the public park, to the City. This transfer is being made in conjunction with the capital improvement grant from the State of Ohio for community parks.

Section 50.01 of the Code of Ordinances obligates City Council to define the primary use for property acquired by the City, particularly when that property includes parks and recreation areas. Section 50.01 puts a restriction on the disposition of such property. Although there is no intended transfer of this property, now or at any time in the future, it will be held by the City and maintained by the City as a public park.

The Council legislation will complete the cycle to authorize the City to accept the transfer of the real estate from The Montgomery Community Improvement Corporation, and to designate the property to be used as a public park for no less than Fifteen (15) years. While it is intended to be used indefinitely as a public park, the Fifteen (15) year cycle is a commitment required as part of the capital improvement project grants.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Terrence M. Donnellon".

Terrence M. Donnellon,  
Law Director

TMD/lld

Enclosure

cc: Brian Riblet, City Manager  
Connie Gaylor, Executive Assistant/Clerk of Council  
Department Heads  
File

RESOLUTION NO. , 2022

**A RESOLUTION ACCEPTING THE TRANSFER OF REAL PROPERTY FROM THE MONTGOMERY COMMUNITY IMPROVEMENT CORPORATION AND DESIGNATING SUCH PROPERTY AS A MUNICIPAL PARK AND RECREATION AREA**

**WHEREAS**, the City, in cooperation with The Montgomery Community Improvement Corporation (“MCIC”), has been working to develop the Montgomery Quarter Project Site; and

**WHEREAS**, a portion of the public improvements within the Project Site includes a public park which has been designed, engineered, and is being constructed by the City and the MCIC in cooperation with the Developer; and

**WHEREAS**, the public park property previously was conveyed by the City to the MCIC with a condition that it be reconveyed as necessary to construct and hold public improvements; and

**WHEREAS**, this Resolution will accept the transfer from the MCIC of Lot 2F upon which the public park is being constructed; and

**WHEREAS**, consistent with Section 50.01 of the Code of Ordinances, upon acceptance of the transfer, Council shall designate this land as municipal park and recreation areas, and consistent with a separate grant approval Council does hereby commit that such property will be held for a minimum of fifteen years from the date of transfer for such municipal park and recreation purposes.

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

**SECTION 1.** The City hereby accepts transfer of Lot 2F of the Montgomery Quarter Subdivision being designated in the Development Plans as a public park.

**SECTION 2.** The City is committed to complete the public improvements as designed and engineered for such park site and all related streetscape in support of the public park.

**SECTION 3.** This Lot 2F shall be noted in the records of the City as a public municipal park and recreation area, and the sale or transfer of such property shall be restricted as required by Section 50.01 of the Code of Ordinances, provided, however, that no transfer is permitted of the municipal park property for a minimum of fifteen years. The City Manager shall appropriately apply to the State and County to exempt this lot as a public purpose park.

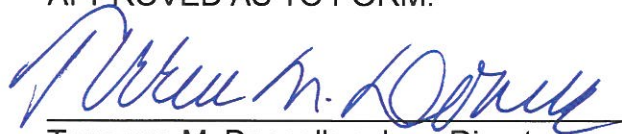
**SECTION 4.** This Resolution shall be in full force and effect from and after its passage.

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:

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

October 5, 2022

TO: Brian Riblet, City Manager

FROM: Matthew Vanderhorst, Community and Information Services Director 

SUBJECT: Recommendation for 2023 Montgomery Bulletin and 2024 Annual Calendar Printing and Design Contract

### Request

The City of Montgomery produces the monthly Montgomery Bulletin and annual City Calendar to inform its citizens and businesses of the services, decisions, and events provided by the City. These publications are regularly recognized as the public's primary communication pieces to acquire information about the community.

It is necessary for City Council to consider a Resolution authorizing the City Manager to continue the current contract with Think Patented for the design and printing of the Montgomery Bulletin and Calendar. The estimated annual cost has increased since the City signed the existing contract and will exceed \$50,000.

### Financial Impact

The Bulletin and City Calendar are budgeted in account 101.715.5390, Outside Printing. The current annual cost for the Montgomery Bulletin and City Calendar is estimated to be approximately \$62,000 by the end of 2022. The estimated cost for 2023 is \$65,414. This cost covers design, printing, and postage. The new estimate is less than the competitive quotes received during the Request for Proposal process for the current contract.

### Recommendation

Think Patented performs quality work that resulted in both publications receiving awards from the Graphic Media Alliance in 2021 and 2022. Staff recommends that the City continue with Think Patented based on the annual renewal option in the current contract.

RESOLUTION NO. , 2022

**A RESOLUTION AUTHORIZING A CONTRACT WITH PATENTED  
ACQUISITION CORPORATION D/B/A THINK PATENTED FOR DESIGN  
AND PRODUCTION SERVICES**

**WHEREAS**, the City produces a monthly bulletin and an annual calendar providing valuable communication services to the residents of the City of Montgomery; and

**WHEREAS**, to most effectively deliver such communications, the Administration has requested proposals from various design and publication firms to quote the costs for professional services; and

**WHEREAS**, after reviewing such proposals, the staff has recommended that the City extend the contract with Patented Acquisition Corporation d/b/a Think Patented, to provide such professional design and publication services which would be exempt from competitive bidding, although the amount of the contract which includes printing would exceed \$50,000 in a calendar year.

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

**SECTION 1.** The City Manager is authorized to execute the attached Master Agreement with Patented Acquisition Corporation d/b/a Think Patented, to extend the current contract for design, production and mailing services for the monthly bulletin and annual calendar in an amount not to exceed \$80,000 for calendar year 2023.

**SECTION 2.** The City Manager is hereby authorized to pay Patented Acquisition Corporation according to the rate set forth within such contract and its attached schedules.

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

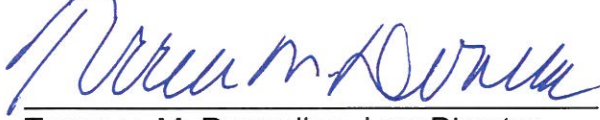
its passage.

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:



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



October 14, 2022

To: Brian Riblet, City Manager

From: Christopher Bigham, Acting Finance Director *CB*

Subject: An Ordinance Request to Terminate Assessment #38-613, Reserve of Montgomery

Introduction

It is necessary for City Council to consider a Ordinance to terminate Assessment #38-613 for the Reserve of Montgomery that was established in 1994 and was paid off early by the City of Montgomery due to the refinancing of bonds issued at a lower interest rate for the assessment. Any balance in the fund would be refunded to the property owners.

Financial Impact

Bonds have been paid in full and the current fund balance in Fund 328, Reserve of Montgomery Bond Retirement Fund, is \$389,029.26 which would be refunded to the property owners. The appropriation request will be included in the final adjustment Ordinance in December and checks will be issued by year end.

Background

The Reserve of Montgomery authorized an assessment in 1995 to finance various improvements through the issuance of bonds. The original 30-year assessment would run through tax year 2025. The bonds were refinanced with favorable interest rates, and the amount necessary to satisfy the bonds was paid off early and now funds are accumulating in Fund 328, Reserve of Montgomery Bond Retirement Fund, with a limited purpose of paying debt service related to the improvements.

The Auditor has recommended that pursuant to R.C. § 727.38, we terminate the assessment and the excess monies which have been collected be returned to the property owners in proportion to the amounts collected. It appears from the legislation that each property within the Reserve was assessed an equal amount, so using that same tax list, once the assessment is terminated, refunds would be issued to the current property owners.

The Hamilton County Auditor's Office needs to receive an approved Ordinance by Council authorizing the termination of the assessment by November 21, 2022, to remove the assessment from the upcoming property tax billing cycle.

Staff Recommendation

It is recommended that City Council approve the Ordinance to discontinue the assessment since all bond payments have been made and per the Ohio Revised Code, any balance be refunded to the property owners.

ORDINANCE NO. \_\_\_\_\_, 2022

**AN ORDINANCE TERMINATING ASSESSMENTS FOR THE RESERVE OF MONTGOMERY AND DECLARING AN EMERGENCY**

**WHEREAS**, in November 1992, Council passed Resolution 92-65 declaring the necessity to design, engineer and construct certain public improvements within the Reserve of Montgomery, which public improvements were to be funded by the levying of special assessments; and

**WHEREAS**, in March 1993, Council did determine the estimated cost of such public improvements and initiated the necessary steps to assess the cost of such public improvements upon the properties located within the Reserve of Montgomery; and

**WHEREAS**, in June 1995, Council passed Ordinance 15, 1995 levying assessments against the properties within the Reserve of Montgomery at a cumulative cost of \$2,635,000.00, which assessments were properly levied upon lots within the Reserve of Montgomery subdivision; and

**WHEREAS**, Council did pass legislation to fund the cost of these public improvements through the issuance of bonds, which bonds now have been fully retired; and

**WHEREAS**, pursuant to R.C. § 727.38, with the bond cost for such public improvements having been retired and the cost of such public improvements having been assessed and fully paid, it is appropriate for Council to terminate such assessment, determine the excess amount which has been paid and received, and proceed to rebate such excess assessments to the property owners against whom such assessments have been levied.

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

**SECTION 1.** The special assessments passed by Council and levied against the properties of the Reserve of Montgomery, as identified on the attached Schedule A, are hereby terminated. All monies received in Fund 328, *Reserve Bond Retirement*, representing collection of special assessments for the Reserve of Montgomery, once the final settlements have been received, shall be apportioned equally among the properties identified on the attached Schedule A who have paid such assessment in installments through the County real estate tax collections, and the amount of the excess collected at the close of the Fund shall be then rebated proportionately to each of these properties as such ownership is identified on the current records of the Hamilton County Auditor.

**SECTION 2.** The Director of Finance and the City Manager are hereby authorized to execute such additional documentation as may be necessary to terminate the assessment, to allocate the excess assessment, and to pay such excess assessment consistent with this Ordinance and as required by Ohio law.

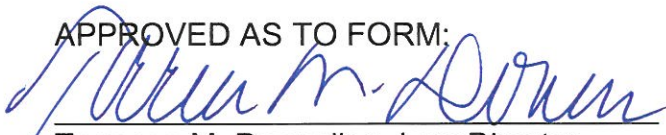
**SECTION 3.** In order to effectively terminate this assessment, this Ordinance is declared to be an emergency necessary for the public health, safety and welfare, and it shall take effect immediately upon passage.

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:

  
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Terrence M. Donnellon, Law Director

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October 14, 2022

TO: Mayor and City Council Members

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

SUBJECT: Resolution Authorizing an Agreement with the State of Ohio, Department of Natural Resources (ODNR)

### Request

It is necessary for City Council to consider a Resolution authorizing the City Manager to enter into an Agreement with the State of Ohio, Department of Natural Resources (ODNR) for grant funds associated with construction of a public park within the Montgomery Quarter project site.

### Financial Impact

Pursuant to House Bill 687, the 134th General Assembly of the State of Ohio has appropriated funds in the amount \$100,000 for costs associated with the “Montgomery Cultural Arts and Performance Fountain” within the Montgomery Quarter project site.

### Background

The City of Montgomery initially submitted a grant application in late 2017 to be considered as part of the State of Ohio’s Biennial Capital Budget for FY19/20 and was approved in the amount of \$250,000. As you know, site work at the Montgomery Quarter did not commence until mid-2020 therefore the original amount was carried over and ultimately approved as part of Senate Bill #310.

In late 2019 the City of Montgomery submitted a subsequent grant application to be considered as part of the State of Ohio’s Biennial Capital Budget for FY 21/22 and was approved in the amount of \$750,000 as part of Senate Bill #310.

All work associated with both previous grant awards is substantially complete and the City of Montgomery has received 90% reimbursement. Both are anticipated to be closed out in early November at which time we can submit for the remaining 10% retainage.

The funds for this latest grant award will be used to support the design and installation of items associated with the Montgomery Cultural Arts and Performance Fountain including electrical and lighting needs, audio equipment, staging and temporary shelter.



As part of the agreement, the project must be substantially completed by June 30, 2024 which coincides with the end of the current Biennial Capital Budget.

The public park is an integral component of the overall Montgomery Quarter development, and this enhancement will provide additional opportunities for public gatherings and programming of events.

### Recommendation

Staff recommends City Council adopt a Resolution authorizing the City Manager to enter into an Agreement with ODNR identified as HAMI-079C in amount of \$100,000 to support the design and installation of items associated with the Montgomery Cultural Arts and Performance Fountain within the Montgomery Quarter project site.

Attachment: ODNR Agreement HAMI-079C

RESOLUTION NO. \_\_\_\_\_, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
CAPITAL IMPROVEMENT COMMUNITY PARK, RECREATION/CONSERVATION  
PROJECT PASS-THROUGH GRANT AGREEMENT WITH THE  
OHIO DEPARTMENT OF NATURAL RESOURCES**

**WHEREAS**, the City has applied to receive and has been preliminary awarded a Grant through the Ohio Department of Natural Resources to offset in part a portion of the costs incurred by the City for the planning, development and construction of the Montgomery Quarter Park; and

**WHEREAS**, to participate in the Grant Program, the Ohio Department of Natural Resources requires the City to execute the attached Capital Improvement Community Park, Recreation/Conservation Project Pass-Through Grant Agreement (“Grant Agreement”); and

**WHEREAS**, the Administration has recommended, and Council agrees, that this Grant Agreement should be executed.

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

**SECTION 1.** The City Manager is authorized to execute the attached Capital Improvement Community Park, Recreation/Conservation Project Pass-Through Grant Agreement with the Ohio Department of Natural Resources for Project reference number HAMI-079C, and to commit the City to expend any funds to support the Montgomery Cultural Arts and Performance Fountain project and any qualified related improvements consistent with the terms of the Grant Agreement. The City shall preserve and protect the public space as public park and recreation property.

**SECTION 2.** The City Manager is authorized to execute any and all additional documentation as requested by the Ohio Department of Natural Resources consistent with the Grant Agreement and the implementation of this Grant Project Program.

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

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

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

\_\_\_\_\_  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:

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

**Capital Improvement Community Park, Recreation/Conservation Project  
Pass-Through Grant Agreement  
Ohio Department of Natural Resources**

This Community Recreation/Conservation Project Pass-Through Agreement (hereinafter referred to as the "Agreement") is made and entered into by and between the State of Ohio, Department of Natural Resources, (hereinafter referred to as "State" or "ODNR"), acting by and through its Director, pursuant to Sections 154.17, 154.22 and 1501.01 of the Ohio Revised Code ("R.C.") and House Bill No. 687, 134th General Assembly of the State of Ohio and the City of Montgomery, an Ohio political subdivision (hereinafter referred to as "Grantee") acting by and through its authorized representative.

Notices: All notices, demands, requests, consents, approvals, and other communications required or permitted to be given pursuant to the terms of this Agreement shall be in writing, and shall be deemed to have been properly given when: 1) hand-delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email, and shall be respectively addressed as follows:

<b>ODNR Contact:</b>  Teresa Goodridge Program Manager Ohio Department of Natural Resources Office of Real Estate & Land Management 2045 Morse Road, Building E-2 Columbus, Ohio 43229 <a href="mailto:Teresa.Goodridge@dnr.ohio.gov">Teresa.Goodridge@dnr.ohio.gov</a>	<b>Grantee Contact:</b>  Brian Riblet City Manager City of Montgomery 10101 Montgomery Road Montgomery, OH 45242 <a href="mailto:briblet@montgomeryohio.org">briblet@montgomeryohio.org</a>
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Notices shall be deemed given upon receipt thereof and shall be sent to the addresses appearing above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgment of receipt by the receiving party. The parties designated above shall each have the right to specify as their respective address for purposes of this Agreement any other address upon fifteen (15) days prior written notice thereof, as provided herein, to the other parties listed above. If delivery cannot be made at any address designated for notices, a notice shall be deemed given on the date on which delivery at such address is attempted.

**WHEREAS**, pursuant to House Bill No. 687, the 134th General Assembly of the State of Ohio has appropriated funds in the amount of One Hundred Thousand Dollars (\$100,000.00) to make a grant to the Grantee for the costs associated with the construction of a park and recreation or conservation facility in appropriation item C725E2, more fully described as 'Montgomery Cultural Arts and Performance Fountain', (hereinafter referred to as the "Project"). Furthermore, \$2,000.00 of the total Project appropriations will be used by ODNR for the administration of the Project. The Project reference number is **HAMI-079C**; and

**WHEREAS**, the General Assembly has identified the Parks and Recreation Improvement Fund (Fund 7035), created and existing under R.C. § 154.22(F), as the fund from which these monies will be disbursed; and

**WHEREAS**, pursuant to R.C. Chap. 154 and Article VIII, Section 2i of the Ohio Constitution, capital facilities lease-appropriation bonds (the "Bonds") have been or will be issued by the Ohio Treasurer of State (the "Treasurer") for the purpose of paying the "costs of capital facilities" including acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging and otherwise improving, equipping, and furnishing capital facilities for parks and recreation, all as defined and described in R.C. § 154.01(K). A portion of those Bonds proceeds will be used by ODNR to provide funding to the Grantee for the Project under this Agreement. Because ODNR is funding the Project with proceeds of those Bonds, ODNR requires that the Grantee make certain representations, warranties, and covenants (both affirmative and negative) concerning the Project and use of the grant funds, as more fully described or provided in this Agreement, in order to comply with federal and state laws, regulations, and rules relating to those Bonds and the projects funded with proceeds of those Bonds.

**NOW THEREFORE**, for the purposes of providing the funds to Grantee pursuant to House Bill No. 687 of the 134th General Assembly, the parties hereto covenant and agree as follows:

- 1. Funding Amount.** ODNR agrees to provide the Grantee Ninety-Eight Thousand Dollars (\$98,000.00), via qualifying advance and reimbursement, to be used toward the total cost of the Project. Two Thousand Dollars (\$2,000.00) of the amount appropriated for the Project will be retained by ODNR to cover administrative costs. In no event shall ODNR's payment to Grantee exceed Ninety-Eight Thousand Dollars (\$98,000.00). Funds for this Project have been released by the Controlling Board as of \_\_\_\_\_ and encumbered by Contract Encumbrance Record Number \_\_\_\_\_ and are so certified by the Director of Budget and Management on \_\_\_\_\_. Obligations of the State are subject to the provisions of R.C. § 126.07. Any funds provided under this Agreement that are not spent shall be returned in full to the State.
- 2. Project Description.** The Grantee shall use the grant funds for 'Montgomery Cultural Arts and Performance Fountain', a project to construct a fountain structure in Keystone Park in Montgomery, OH, all as more fully described in Exhibit A attached hereto.
- 3. Effective and Termination Dates.** This Agreement shall commence on the date that it is signed by ODNR (the "Effective Date") and will, unless otherwise earlier terminated as provided herein, expire on the later of: (i) 15 years from the date of the payment of the final Project reimbursement (or Project acquisition if the Project is solely for the acquisition of real property) ("Project Closeout"); or (ii) the date upon which the latest Bond issuance funding or refinancing of the Project is paid in full (the "Term"). Grantee shall complete the Project on or before June 30th, 2024.
- 4. No Restrictions of Record.** Grantee hereby represents and warrants that there are not now, and there will not be, any restrictions of record or otherwise with respect to the Project, including without limitation, any encumbrances, liens, or other matters, which would interfere with or otherwise impair the use of the property as described in the Boundary Map attached hereto as Exhibit B, on which the Project will be located and developed as a public parks and recreation or conservation facility (the "Property") except for those restrictions permitted below. Grantee represents that it is the fee simple owner, or has a lease, exclusive easement, or cooperative use agreement with a term longer than the Term hereof, on the Property and that the only restrictions of record, or otherwise, with respect to the Property are: (a) all zoning regulations, restrictions, rules and ordinances, and other laws and regulations now in effect or hereafter adopted by any governmental agencies having jurisdiction over the Property, (b) dedicated public rights-of-way identified on Exhibit B, Boundary Map, and (c) the

encumbrances, items, and other matters identified in Exhibit C, Title Encumbrances. Grantee hereby represents and warrants that there are not now, and shall not cause there to be, any restrictions with respect to the Project or Property, including without limitation, any encumbrances, liens, or other matters, which would interfere with or otherwise impair the use of the Property as a public park, recreation facility, or conservation facility.

5. **Construction Services.** Grantee represents that it will contract for all construction services for the Project and will provide for construction administration. Grantee shall have the full authority to contract with third parties for the design and construction of the Project. Grantee shall secure all necessary permits and licenses for the Project. Grantee warrants that it will cause the Project to be constructed or acquired, as applicable, with all reasonable speed and reasonably adhere to any submitted development timeline. Grantee shall comply with all applicable federal and state requirements relating to the competitive selection of contractors and comply with its own competitive selection policies and procedures. If competitive selection for the Project is not required by law, to the extent reasonably possible as determined by Grantee, Grantee shall employ an open and competitive process in the selection of its contractors. Bid documents designed to be so restrictive to exclude open competitive bidding and bid documents that do not allow for "or equal" provisions may not be acceptable.
6. **Operation, Maintenance, and Upkeep.** Grantee shall be solely responsible for the operation, maintenance, and upkeep of the Project, and shall take all actions reasonably necessary to ensure that the Project is available to the public for the intended parks and recreation or conservation purpose during the Term. Failure to comply with this provision or any other provision of this Agreement may result in demand for repayment of all or a portion of the grant funds paid by ODNR to Grantee under this Agreement. The amount to be repaid will be calculated based on the ratio of (x), the number of months from the event triggering the reimbursement to the final scheduled maturity date of the Bonds, over (y), the total number of months that the Bonds are scheduled to be outstanding. Grantee shall not make any grant repayment unless first consulting with ODNR, and ODNR shall not accept any repayment without first obtaining the approval of the Ohio Public Facilities Commission ("OPFC").
7. **Remittances.** If for any reason funds acquired through this Agreement are required to be paid, repaid, or remitted to the State, they shall be remitted in full by the Grantee within forty-five (45) days of demand to:

Ohio Treasurer of State  
30 East Broad Street, 9th Floor  
Columbus, Ohio 43215

Any such remittance shall include a copy of this Agreement. A copy of the cover letter transmitting the remittance to the Treasurer of State shall be sent simultaneously to ODNR.

8. **Conveyance of Interest in Project to ODNR.** As security for the performance of Grantee's obligations under this Agreement, Grantee hereby conveys to ODNR an interest in the Property, consisting of the right to use and occupy the Property and the facilities funded in whole or in part with grant funds under this Agreement upon default of this Agreement by Grantee. This interest shall remain in effect during the Term of this Agreement. Grantee hereby acknowledges and agrees that ODNR may assign

or convey such right to use and occupy such facilities to the OPFC or such other State agency selected by ODNR, and Grantee does hereby consent to such assignment or conveyance. In addition, ODNR has entered into a lease with OPFC relating to the Bonds and the Project; provided that, so long as Grantee shall not default under this Agreement, such lease shall not affect the Project or the use of the Property. ODNR acknowledges that, absent a default by Grantee, ODNR has no right to use or occupy the Property or Project. ODNR shall have the right during the Term hereof to enter upon the Property during normal business hours for purposes of inspection of the Project for compliance with this Agreement.

9. **Prohibition Against Disposition.** Grantee shall not dispose of all or any part of the Project or Property funded by ODNR through the Term of this Agreement without the prior written consent of ODNR and OPFC. All notices, demands, requests, consents, approvals, and other communications to OPFC shall be addressed as follows:

Ohio Public Facilities Commission  
30 East Broad Street, 34th Floor  
Columbus, Ohio 43215  
Attn: Assistant Secretary

10. **Joint or Cooperative Use Agreement.** If the Property is owned by a separate nonprofit organization and made available to a state agency for its use or benefit, the nonprofit organization must either own, or have a long-term lease (for at least so long as the latest Bond issuance funding or refinancing of the Project have not been paid in full) of, the Property or other capital facility to be improved, renovated, constructed, or acquired and enter into a joint or cooperative use agreement, with and approved by the state agency that meets the requirements of H.B. 687, 134th General Assembly.
11. **Liability; Waiver of Liability.** Grantee shall be solely liable for any and all claims, demands, or causes of action arising from its obligations under this Agreement. Each party to this Agreement must seek its own legal representative and bear its own costs, attorney fees and expenses, in any litigation that may arise from the performance of this Agreement or the Project. It is specifically understood and agreed that ODNR does not indemnify Grantee. Nothing in this Agreement shall be construed to be a waiver of the sovereign immunity of the State of Ohio or the immunity of any of its employees or agents for any purpose. Nothing in this Agreement shall be construed to be a waiver of any immunity of Grantee granted by statute or the immunity of any of its employees or agents for any purpose. In no event shall ODNR be liable for indirect, consequential, incidental, special, liquidated, or punitive damages, or lost profits. On and after the date of this Agreement, Grantee agrees not to seek any determination of liability against ODNR, OPFC, the Treasurer, or any department, agency, or official of the State in the case of claim or suit arising from the Project including the acquisition of the Property or any future condition, construction, operation, maintenance, or use of the Property or facilities which may be developed in relation to the Project. Grantee forever releases and waives any and all claims, demands, and causes of action it may ever possess or assert against ODNR and its employees, agents, officials, and attorneys arising from, or relating to, the Project.

12. **Insurance.**

- a. Adequate Insurance. Unless otherwise agreed to by ODNR in writing, Grantee shall maintain, or cause to be maintained, at no cost to ODNR, commercial general liability insurance and other

insurance, including casualty insurance, and if applicable, professional liability insurance, and builder's risk insurance, to insure ODNR, OPFC, the Treasurer, and the State in an amount and type determined by a qualified risk assessor to be sufficient to cover the full replacement costs of improvements funded, in whole or in part, by the State, and for bodily injury, property damage, personal injury, advertising injury, and employer's liability exposures of Grantee. Unless otherwise agreed to by ODNR in writing, such insurance shall remain in force at all times from the Effective Date hereof through the Term of this Agreement.

- b. Self-Insurance. Instead of providing the general liability and casualty insurance above, Grantee may name ODNR, OPFC, the Treasurer, and the State as additional insureds and/or loss payees, as the coverage requires, under a self-insurance program or joint self-insurance pool created under R.C. §§ 2744.08 or 2744.081, respectively, and operated by or on behalf of Grantee, in order to meet the insurance requirements set forth herein.
13. **Bonded and Insured Employees and Agents**. Prior to any advance (but not reimbursement) payments by ODNR, Grantee will provide ODNR with a document that demonstrates that all employees or agents of Grantee who are responsible for maintaining or disbursing advanced funds acquired through this Agreement will be fully bonded or insured against loss of such funds. The bonding agent or insurer shall be licensed to do business in Ohio. No part of the funds acquired by Grantee through this Agreement shall be spent to obtain that bonding or insurance.
14. **Public Funds Compliance**. Grantee will assure compliance with all applicable federal, state, and local laws and regulations pertaining to handling, management, and accountability in relation to public funds. All funds received by Grantee under this Agreement shall be deposited in one or more financial institutions that fully insure, secure, or otherwise protect the funds from loss through federal deposit insurance and/or other deposit and/or collateralization strategies that protect the funds against loss. If Grantee is a political subdivision of the State, grant funds shall be held in compliance with R.C. Chap. 135.
15. **Reports and Records**. Grantee will keep and make all reports and records associated with the Project funded under this Agreement available to the State Auditor, or the Auditor's designee, ODNR, and OPFC for a period of not less than eighteen (18) years after the date of Project Closeout. These reports and records shall include a description of the Project, a detailed overview of the scope of work, disbursement details (including amount, date, nature/object of expenditure), and vendor information. Grantee acknowledges that the Auditor of State and other departments, agencies, and officials of the State may audit the Project at any time, including before, during, and after completion. Grantee agrees that any costs of audit by the Auditor of State or any other department, agency, or official of the State will be borne exclusively by, and paid solely by, Grantee, and that the funds provided under this Agreement will not be used by Grantee for payment of any audit expenses for any reason at any time.
16. **Restrictions on Expenditures**. Grantee affirmatively states that Grantee is fully aware of the restrictions and guidelines for expending funds granted under this Agreement and intends to comply fully with the same. Grantee will implement appropriate monitoring controls to ensure that funds acquired through this Agreement are expended in accordance with all applicable laws, rules, and requirements.



17. **Determination of Ineligibility.** If it is determined by any audit by the Auditor of State or any department, agency, or official of the State or other agency or entity with legal audit authority that any Project expense is ineligible, or not properly documented, Grantee will repay that amount in full to the State.
18. **Equal Opportunity Compliance.** If Grantee is a political subdivision, Grantee shall comply with the requirements of R.C. § 125.111 for all contracts for purchases under the Project.
19. **Real Property Acquisition.** All appropriations of real property for the Project by Grantee shall be made pursuant to R.C. §§ 163.01 to 163.22, except as otherwise provided in R.C. Chap. 163.
20. **Prevailing Wage.** Except as provided in R.C. § 4115.04, monies appropriated or reappropriated for the Project shall not be used for the construction of public improvements, as defined in R.C. § 4115.03, unless the mechanics, laborers, or workers engaged therein are paid the prevailing rate of wages prescribed in R.C. § 4115.04. Nothing in this section affects the wages and salaries established for state employees under R.C. Chap. 124, or collective bargaining agreements entered into by the State under R.C. Chap. 4117, while engaged on force account work, nor does this section interfere with the use of inmate and patient labor by the State.
21. **Project Nondiscrimination.** Grantee agrees that any facilities that may be developed now or in the future on the lands comprising the Project will be made available to all persons regardless of race, color, sex, religion, national origin, ancestry, age, military status, handicap, or disability on the same terms and conditions.
22. **Employment Nondiscrimination.** Pursuant to R.C. Chap. 4112, Grantee agrees that Grantee and any person acting on behalf of Grantee or a contractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status as defined in R.C. § 4112.01, national origin, or ancestry against any citizen of this State in the employment of any person qualified and available to perform services relating to the Project. Grantee further agrees that Grantee and any person acting on behalf of Grantee or a contractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of services relating to the Project on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry. If required by R.C. § 125.111(B) and O.A.C § 123: 2-3-02, Grantee shall have a valid Certificate of Compliance (COC) from the Ohio Department of Administrative Services, Equal Opportunity Division demonstrating compliance with affirmative action program requirements.
23. **ODNR Right to Terminate.**
  - a. Breach; Notice. ODNR reserves the right to terminate this Agreement upon written notice to Grantee and to recover any funds distributed by Grantee to contractors or other payees in violation of the terms of this Agreement if Grantee is determined by ODNR to be unable to proceed with the Project, or if Grantee violates any of the terms herein.
  - b. Opportunity to Cure. ODNR, in its sole discretion, may permit Grantee to cure the breach. Such cure period shall be no longer than twenty-one (21) calendar days. Notwithstanding ODNR permitting a period of time to cure the breach or Grantee's cure of the breach, ODNR does not

waive any of its rights and remedies provided to ODNR in this Agreement or as may be permitted by law.

**24. Legal, Federal Tax, and Other Compliance.**

- a. Reports of Expenditures. Grantee will assure that monies expended under this Agreement are spent in conformity with the intent and purpose of the appropriation, the limitations on use set forth in the legislation containing the appropriation, and R.C. Chap. 154 and all other laws that apply to the expenditure of monies by Grantee. If Grantee is required to submit an annual financial report to the Auditor of State, in accordance with Auditor of State Bulletin 2015-07, then Grantee shall report the funds it acquires through this Agreement as a separate column identified in a manner consistent with the Project description in appropriation item C725E2. If Grantee is not required to submit the aforementioned report, Grantee shall file an annual detailed expenditure report of all expenditures associated with the Project with the Auditor of State by March 1st every year until all funds provided in this Agreement have been spent. The above reports shall be filed in accordance with Auditor of State Bulletin 2015-07.
- b. Compliance with Employment Laws. Grantee agrees to comply with all applicable federal, state, and local laws and regulations, in the conduct of the Project and acknowledges that its employees are not employees of ODNR with regard to the application of the Ohio Public Employees Retirement law, Fair Labor Standards Act minimum wage and overtime provisions, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Ohio revenue and tax laws, Ohio Workers' Compensation Act, and Ohio unemployment compensation law.
- c. Compliance with Law; Preservation of Tax-Exempt Status of Bonds. Grantee agrees to use funds provided under this Agreement in accordance with the Ohio Constitution and any state or federal laws and regulations that may apply. Grantee shall repay ODNR any funds improperly expended. Additionally, Grantee agrees to comply with all requirements within its control necessary to preserve the tax status of all tax-exempt or tax-advantaged bonds, the proceeds of which are used to provide the funding to Grantee set forth in this Agreement. Unless otherwise determined by the OPFC, such requirements include, but are not limited to, ensuring that the funds provided under this Agreement finance capital expenditures (as opposed to operating expenses) and are not used to refund or otherwise refinance existing debt of Grantee. Grantee shall be liable for any payments to the Internal Revenue Service or the U.S. Treasury as penalties or to preserve the tax status of tax-exempt or tax-advantaged bonds, and any other costs, resulting in whole or in part from actions taken by Grantee, including the failure of Grantee to comply with federal income tax laws applicable to such bonds. Grantee agrees to consult with OPFC if the Grantee is uncertain as to what expenditures are eligible to be financed with funds provided under this Agreement.

**25. Relationship of Parties.**

- a. Expenses. Grantee shall be responsible for all of its own business expenses, including, but not limited to, computers, email and internet access, software, phone service, and office space. Grantee will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation

coverage, if any, unless payment for any such item is specifically provided for herein or in the purchase order.

- b. **No Control Over Means and Methods.** While Grantee shall be required to perform its obligations described hereunder during the term of this Agreement, nothing herein shall be construed to imply, by reason of Grantee's obligations hereunder, that ODNR shall have or may exercise any right of control over Grantee with regard to the means or method of Grantee's performance of its obligations hereunder.
  - c. **Right to Bind.** Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.
  - d. **No Agency.** Neither Grantee nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of ODNR or the State of Ohio.
26. **No Finding for Recovery.** Grantee represents and warrants to the ODNR that it is not subject to a finding for recovery under R.C. § 9.24, or that it has taken appropriate remedial steps required under R.C. § 9.24 or otherwise qualifies under that section. Grantee agrees that if this representation or warranty is determined by ODNR to be false, this Agreement shall be void ab initio as between the parties to this Agreement, and any funds paid by the State hereunder immediately shall be repaid in full to the State, or an action for recovery immediately may be commenced by the State for recovery of said funds.
27. **Qualification to Receive Grant.** Grantee affirms that it is a duly authorized federal government agency, municipal corporation, county, or other governmental agency or nonprofit organization, qualified to receive grants under R.C. § 154.22(F). Grantee further affirms that if at any time during the Term of this Agreement, Grantee for any reason becomes disqualified from receiving grants under R.C. § 154.22(F), Grantee will immediately notify ODNR in writing and will immediately cease performance of the Project. Failure to provide such notice in a timely manner shall void this Agreement and may be sufficient cause for the State of Ohio to debar the Grantee from future state grant opportunities as may be permitted by law.
28. **Campaign Contributions.** Grantee hereby certifies that neither it, nor any person described in R.C. § 3517.13 (I) or (J), nor the spouse of any such person, has made, as an individual, within the two previous calendar years, one or more contributions to the governor or the governor's campaign committees totaling in excess of the limitations specified in R.C. § 3517.13.
29. **Ethics Certification.** Grantee, by signature on this document, certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in R.C. Chap. 102 and in R.C. §§ 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws. Grantee understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State.
30. **Certification of Funds / Non-Appropriation.** It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, R.C. § 126.07, have been met, and until such time as all necessary funds are available or encumbered and,

when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that ODNR gives Contractor written notice that such funds have been made available to ODNR by ODNR's funding source.

31. **Time Is of The Essence.** Time is of the essence in this Agreement.

32. **Miscellaneous.**

- a. Controlling Law. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the state of Ohio. Grantee consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
- b. Waiver. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
- c. Successors and Assigns. Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by Grantee, without the prior written consent of ODNR.
- d. Conflict with Exhibits. In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.
- e. Headings. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.
- f. Severability. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially-enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.
- g. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.
- h. Execution. This Agreement is not binding upon ODNR unless executed in full and is effective as of the last date of signature by ODNR.
- i. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- j. Electronic Signatures. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to R.C. Chap. 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

**IN TESTIMONY WHEREOF**, Grantee and ODNR have caused this Agreement to be executed by their respective duly authorized officers.

GRANTEE

OHIO DEPARTMENT OF NATURAL RESOURCES

CITY OF MONTGOMERY

OFFICE OF REAL ESTATE & LAND MANAGEMENT

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

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

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

ATTORNEY CERTIFICATION

Community Park, Recreation, or Conservation Project Number: **HAMI-079C**

I, \_\_\_\_\_, acting as attorney for the  
Name and Title of Attorney  
\_\_\_\_\_("Grantee"), and for the reliance of the  
Name of Grantee

Ohio Department of Natural Resources, do certify that from my examination of the Capital Improvement Community Park Recreation or Conservation Project, Pass-Through Grant Agreement (the "Agreement") and my knowledge of Grantee's organization, that acceptance of the Agreement by Grantee and the execution thereof by the signing officer has been duly authorized and is proper and in accordance with the laws of the State of Ohio. Grantee is a legally constituted public entity with full authority and legal capacity to perform all obligations and terms of the Agreement. Upon signature by the signing officer, the Agreement, in my opinion, is a legal obligation of Grantee in accordance with the terms thereof, and Grantee possesses the legal authority to fully perform all obligations incurred by Grantee in signing this Agreement. Grantee's acceptance of the Agreement and the signing officer's execution thereof,  has  has not\* been authorized by the governing body of Grantee or has otherwise been authorized by Grantee's charter. (Resolution or Ordinance No. \_\_\_\_\_, dated \_\_\_\_\_, 202\_\_).

\*If "has not" is checked above, please indicate the reason: \_\_\_\_\_

**Attorney for Grantee:**

\_\_\_\_\_  
Attorney Signature

\_\_\_\_\_  
Attorney Printed Name

\_\_\_\_\_  
Attorney Registration No.

\_\_\_\_\_  
Date Signed

Attorney Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### EXHIBIT C TITLE ENCUMBRANCES

**Encumbrances DO NOT Exist:**

I hereby certify, as an authorized representative of City of Montgomery ("Grantee"), that there are currently **NO** encumbrances, liens, easements, or restrictions against the Property defined in this Agreement.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**Encumbrances DO Exist:**

I hereby certify, as an authorized representative of City of Montgomery ("Grantee"), that the following encumbrances, liens, easements, or restrictions are the only encumbrances, liens, easements, or restrictions that currently exist against the Property defined in this Agreement (attach an additional page, if needed):

*Example: Easement by and between [Name of Grantee] and \_\_\_\_\_ dated \_\_\_\_\_ and recorded at Official Record # \_\_\_\_\_ (Vol. # \_\_\_\_\_ of Page # \_\_\_\_\_) of [Name of County] County, Ohio.*

1	
2	
3	
4	
5	

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

# EXHIBIT A

## PROJECT INFORMATION PACKAGE

Forms and requested materials (maps, etc.) on pages 2-13 comprise the 'Project Information Package. Please complete all forms on pages 2-13 and send with all other requested materials on pages 2-13 (only) to the address below. This is the first step in the Project coordination process.

Teresa Goodridge  
ODNR  
Office of Real Estate  
2045 Morse Road, E2  
Columbus, Ohio 43229-6693  
614-265-6396



### BASIC INFORMATION

Awarded Project Sponsor: City of Montgomery

Project Sponsor's Address: 10101 Montgomery Road, Cincinnati, OH 45242  
Street Address 1

Street Address 2

City, State ZIP

Tax Identification Number: #31-600107

Contact Person:	<u>Brian Riblet</u>	<u>City Manager</u>
	Name	Title

Email Address: briblet@montgomeryohio.org

Phone Number: 513-792-8319

### Brief Description of Project:

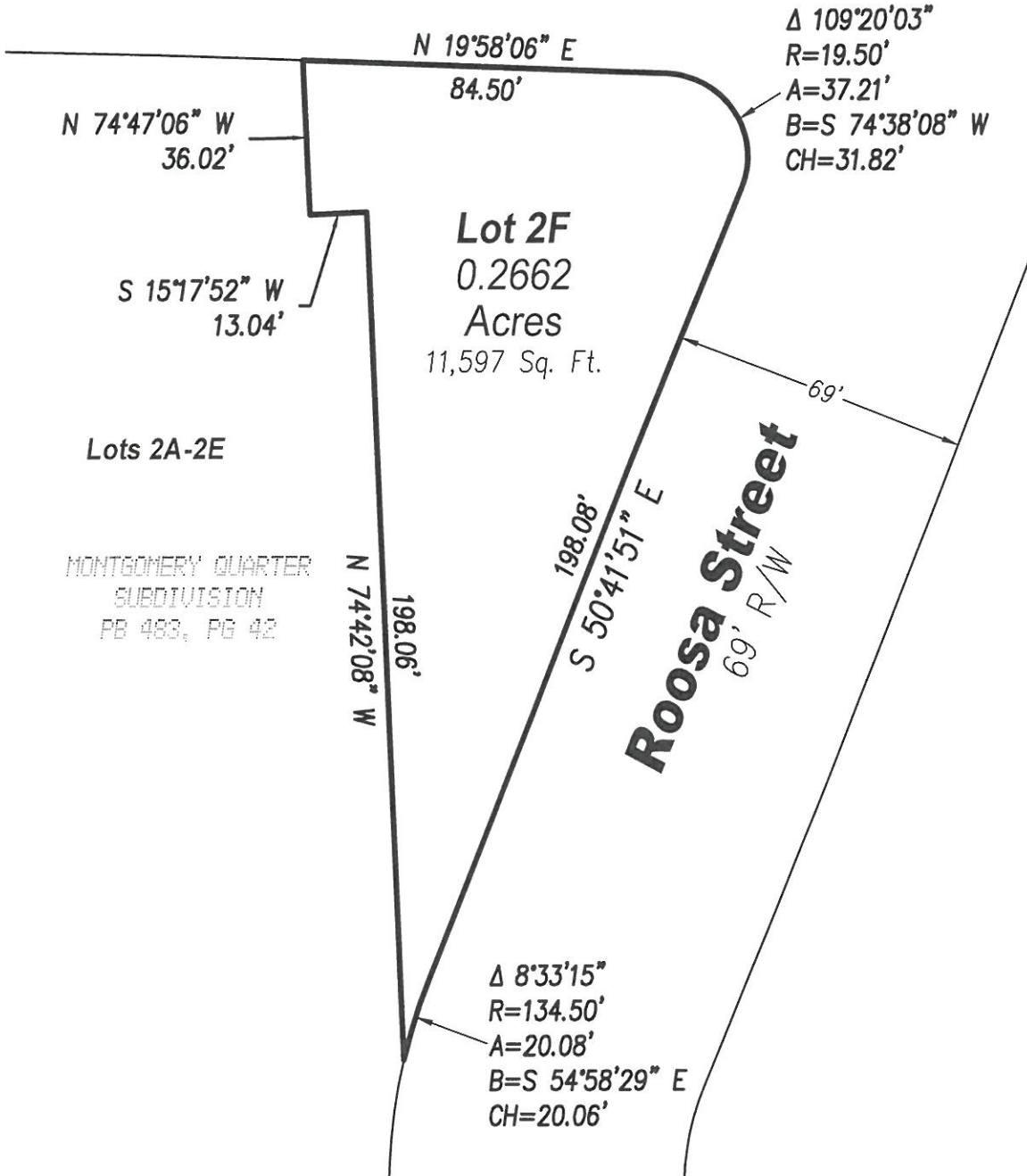
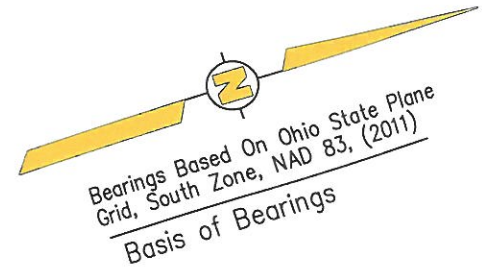
The City of Montgomery is in the process of constructing a welcoming and inclusive public gathering space for all to enjoy. The center focal point of the plaza will feature an artistic fountain structure that can convert to a performance stage. Preliminary plans include an array of activities including but not limited to music performances, performing arts, health and wellness activities, interactive events, art show demonstrations and classes, theater performances, lunch-n-learn activities, holiday themed activities, environmental education events, cooking demonstrations, family-friendly events, family pet events, DORA events, and much more.



# EXHIBIT B

## Montgomery Rd

R/W Varies



Montgomery Quarter  
Public Park Exhibit

Survey Type

Montgomery Quarter  
Subdivision

Job Name

Section 3, Town 4, E.R. 1  
Sycamore Townwhip  
City of Montgomery  
Hamilton County, Ohio

Site Location

TMS | GJB | 1" = 40'

Drawn By | Checked By | Drawing Scale

02/03/2021 | 17067.50

Issue Date | Project Number



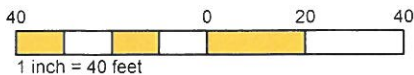
### Berding Surveying

GPS Surveying • 3D Laser Scanning

741 Main Street | Milford, OH 45150 | www.berdingsurveying.com

513.831.6761 fax | 513.831.5505 tel

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

City of Montgomery  
City Council Public Hearing Minutes  
October 5, 2022

Present

Brian Riblet, City Manager  
Terry Donnellon, Law Director  
Kevin Chesar, Community Development Dir.  
John Crowell, Police Chief  
Gary Heitkamp, Public Works Director  
Chris Bigham, Interim Finance Director  
Matthew Vanderhorst, Community and Information Services Dir.  
Paul Wright, Fire Chief  
Amy Frederick, Community Engagement Coordinator  
Connie Gaylor, Clerk of Council

City Council Members Present

Craig Margolis, Mayor  
Vice Mayor Bissmeyer, Vice Mayor  
Mike Cappel  
Chris Dobrozsi  
Ron Messer  
Sasha Naiman  
Ken Suer

City Council convened its Public Hearing for October 5, 2022 at 6:45 p.m. at City Hall with Mayor Margolis presiding with all Council members being present.

Mayor Margolis explained that the Public Hearing was for the purpose of considering an Application for Expansion of a Conditional Use and Final Development Plan for the Gate of Heaven Cemetery.

Mayor Margolis explained the process for the Public Hearing. He explained that in a public hearing Council has the following options when considering an application:

- Approve the Recommendation
- Deny the Recommendation
- Remand the matter to Staff for more specific information or
- Take the matter under advisement and vote at another public meeting within thirty days.

Mayor Margolis explained that if City Council chooses the final option, it is suggested that they announce the date and time of the subsequent hearing when the matter will be discussed and considered for vote.

**NEW BUSINESS**

**Application for Expansion of a Conditional Use and Final Development Plan for the Gate of Heaven Cemetery**

Mr. Chesar explained that it is requested that City Council consider a recommendation from the Planning Commission regarding the Application for Expansion of a Conditional Use and Final Development Plan for the Gate of Heaven Cemetery regarding the construction of two mausoleums.

Mr. Chesar explained that The Archdiocese of Cincinnati/Gate of Heaven Cemetery as a part of growth in internment services has proposed to construct two new mausoleums. Each mausoleum structure is approximately 2,860 square feet for a total of 5,720 sq. ft. The cemetery anticipates building the first structure, labeled A1/B1, within the next year. The applicant plans to construct Structure A2/B2 within 5 years. The overall cemetery property is approximately 160 acres and the area for the location of the mausoleum is impacting about 35,000 sq. ft. (.8 acre). The mausoleums will be located on the western side of the cemetery approximately 240 feet away from Montgomery Road between the offices and columbarium structures. The property is zoned 'A' Single Family Residential, and cemeteries are a conditionally permitted use in the district. The property has been utilized as a cemetery since 1947. The surrounding properties to the north are zoned 'A' Single Family Residential and

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City Council Public Hearing Minutes

June 22, 2022

Page 2.

53 'D3' Multi-Family Residential (Vintage Club), east and south are zoned 'A' Single Family Residential and used  
54 for single family residences. The property to the west is mostly located in the township with a small area zoned  
55 'GB' General Business. Overall, a majority of the frontage of the property is bound by Montgomery Road on the  
56 west and I-275 on the south.

57

58 Mr. Chesar explained that the Planning Commission met on September 12, 2022, to consider the application for  
59 the expansion of a conditional use and the Final Development Plan. After hearing testimony and discussing the  
60 application, the Planning Commission was not in favor of extending the expiration date past the typical one year  
61 as it pertains to the future construction of building A2/D2. Overall, the Planning Commission voted unanimously  
62 to recommend approval of the expansion of the conditional use permit and approve the Final Development Plan.  
63 The conditions recommended by the Planning Commission are shown below:

64

- 65 • Final stormwater regulations be met in conformance with Hamilton County Stormwater Regulations.
- 66 • The Final Development Plan be approved with City Council's approval of the Expansion of Conditional Use.
- 67 • Final landscaping be approved subject to the City Arborist.

68

69 Mr. Chesar closed by stating the project significantly enhances the development of internment services provided  
70 by the Gate of Heaven Cemetery. The proposed structures are on a small portion of the overall property and are  
71 intended to architecturally compliment current cemetery buildings. The site presently has substantial landscaping  
72 and mounding with additional vegetation being added to enhance the area for visitors. Overall, the addition of the  
73 mausoleums should not have any negative impacts on surrounding properties. Therefore, Staff supports the  
74 recommendation of the Planning Commission.

75

76 Mrs. Naiman stated she thought the two buildings being built next to each other would look nice.

77

78 Mr. Dobrozsi asked how many other mausoleums they had, and which building would be built first.

79

80 Mr. Jordan from the Gate of Heaven Cemetery replied there were four mausoleums to the west and the first one  
81 built would be the one closest to the office.

82

83 Vice Mayor Bissmeyer stated that she knew that the Planning Commission had discussions about approving both  
84 buildings.

85

86 Mr. Chesar replied they did approve the development plan of both, but the discussion was around the approval of  
87 the time needed to construct both under one permit. He explained that the Commission were concerned there  
88 could be code changes prior to the time the second building would be built and concluded that the applicant would  
89 have to come back to the Commission for an additional conditional use permit if both buildings were not built in  
90 the same year.

91

92 Mayor Margolis restated that the options available to City Council related to this request were:

93

- 94 • Approve the Recommendation
- 95 • Deny the Recommendation
- 96 • Remand the matter to Staff for more specific information or
- 97 • Take the matter under advisement and vote at another public meeting within thirty days.

98

99 Mr. Cappel made a moved to accept the Planning Commission recommendation to approve the conditional use

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City Council Public Hearing Minutes

June 22, 2022

Page 3.

100 permit and final development plan for the Gate of Heaven Cemetery. Vice Mayor Bissmeyer seconded. City  
101 Council unanimously agreed.

102  
103 Mayor Margolis asked if there was any further business to be heard in the Public Hearing. There being none, he  
104 asked for a motion to adjourn from the Public Hearing.

105  
106 Mr. Cappel made a motion to adjourn. Vice Mayor Bissmeyer seconded. City Council unanimously agreed.

107  
108 The meeting was adjourned at 6:56 p.m.

109

110

111

112

113

---

Connie Gaylor, Clerk of Council

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

City of Montgomery  
City Council Business Session Minutes  
October 5, 2022

Present

Brian Riblet, City Manager  
Terry Donnellon, Law Director  
Chris Bigham, Interim Finance Director  
Kevin Chesar, Community Dev. Director  
John Crowell, Police Chief  
Gary Heitkamp, Public Works Director  
Paul Wright, Fire Chief  
Amy Frederick, Community Engagement Coordinator  
Connie Gaylor, Clerk of Council

City Council Members Present

Craig Margolis, Mayor  
Lee Ann Bissmeyer, Vice Mayor  
Mike Cappel  
Chris Dobrozsi  
Ron Messer  
Sasha Naiman  
Ken Suer

City Council its Business Session for October 5, 2022 at 6:57 p.m. at City Hall with Mayor Margolis presiding.

**ROLL CALL**

Mayor Margolis asked for a motion to dispense with the roll call as all members were present.

Mr. Cappel made a motion to dispense with the roll call. Vice Mayor Bissmeyer seconded. City Council unanimously agreed.

Mayor Margolis recognized the passing of former Council Member George Rehfeldt.

**LEGISLATION TO BE CONSIDERED THIS EVENING**

Mr. Donnellon explained that if Council would so choose, they could make one motion to accept the agenda for the November 2, 2022 Business Session and also read all legislation by title only. He stated this would streamline the process.

Mr. Cappel made a motion to accept the legislation for the November 2, 2022 Business Session and to read all legislation by title only. Vice Mayor Bissmeyer seconded. City Council unanimously agreed.

**PENDING LEGISLATION**

**An Ordinance Accepting Dedicated Streets Within The City**

Mr. Cappel moved for passage of the second reading of the Ordinance. Mr. Dobrozsi seconded.

Mr. Cappel explained that information has been previously supplied on this Ordinance that, if approved, would formally accept various streets within the City of Montgomery which have been dedicated for public use but had never been properly accepted. Several years ago, the City updated the Hamilton County records to reflect various streets within the City which had been dedicated on the various subdivision plats. However, the Developer had not followed through to have the streets accepted after construction was complete.

Mr. Cappel asked if there were any updates.

Mr. Heitkamp replied there were none.

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City Council Business Session Minutes

October 5, 2022

Page 2

55 The roll was called and showed the following vote:

56  
57 AYE: Cappel, Bissmeyer, Dobrozsi, Margolis, Naiman, Suer, Messer (7)

58 NAY: (0)

59

60 **NEW LEGISLATION**

61

62 **A Resolution Accepting the Amounts and Rates as Determined by The Budget Commission and Authorizing**  
63 **the Necessary Tax Levies and Certifying Them to The County Auditor**

64

65 Mr. Suer moved for passage of the Resolution. Mr. Cappel seconded.

66

67 Mr. Suer explained that information has been previously supplied on this Resolution that, if approved, would  
68 accept the rates and amounts determined by the Hamilton County Budget Commission. As a State of Ohio taxing  
69 authority and pursuant to the Ohio Revised Code, the City is required to adopt an annual tax budget. City Council  
70 adopted the Tax Budget on July 6, 2020, and then submitted it to the Hamilton County Auditor for review by that  
71 office and the Hamilton County Budget Commission. Those reviews did not generate any questions and the  
72 proposed Tax Budget was accepted by the Budget Commission and Auditor. City Council is requested to act to  
73 accept the Budget Commission's rates and amounts, which would result in the estimated collections as specified in  
74 the City's 2023 Tax Budget. This action will then permit the Budget Commission to collect property taxes at the  
75 rates established for the upcoming year.

76

77 Mr. Suer asked if there were any updates.

78

79 Mr. Bigham replied there were none.

80

81 The roll was called and showed the following vote:

82

83 AYE: Bissmeyer, Dobrozsi, Margolis, Naiman, Suer, Messer, Cappel (7)

84 NAY: (0)

85

86 **An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of**  
87 **Montgomery, State of Ohio During the Fiscal Year Ending December 31, 2023**

88

89 Mr. Dobrozsi explained that he would recuse himself from the vote and discussion moving forward. He explained  
90 that although he has no ownership interest in Neyer Properties, Inc. nor any in the limited liability companies in  
91 partnership to develop the Montgomery Quarter, he will continue to recuse himself from discussion and abstain  
92 from voting upon legislation related to the Montgomery Quarter project.

93

94 Mr. Suer moved for passage of the first reading of the Ordinance. Mr. Cappel seconded.

95

96 Mr. Suer explained that information has been previously supplied on this Ordinance that, if approved, would  
97 establish the City's budget for fiscal year 2023. These documents were presented to and reviewed with City  
98 Council at the September 15 Budget Review meeting.

99

100 Mr. Suer asked if there were any updates.

101

102 Mr. Bigham stated there were none at this time.

103

104

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105 The roll was called and showed the following vote:

106  
107 AYE: Margolis, Naiman, Suer, Messer, Cappel, Bissmeyer (6)  
108 NAY: (0)  
109 ABSTAIN: Dobrozsi (1)  
110

111 **A Resolution Authorizing An Agreement With The Ohio Department Of Transportation For Bridge**  
112 **Inspection Services**  
113

114 Mr. Cappel moved for passage of the Resolution. Mr. Messer seconded.  
115

116 Mr. Cappel explained that information has been previously supplied on this Resolution that, if approved, would  
117 authorize the City Manager to enter into an agreement with the Ohio Department of Transportation (ODOT) for  
118 the project known as Bridge Inspection Program Services, PID 109334. Each year the City of Montgomery is  
119 required to complete an annual inspection of the bridge located on Terwilliger's Run Drive. In 2019, the City of  
120 Montgomery entered into a similar agreement with ODOT by passing Resolution 27, 2019 which included bridge  
121 inspection services for years 2020, 2021 and 2022. ODOT has indicated they are renewing the program for the  
122 year 2023 and anticipate going back to a three year program for 2024, 2025 and 2026. In this program the Ohio  
123 Department of Transportation shall assume and bear 100% of the necessary costs for bridge inspection program  
124 services requested by the City of Montgomery and agreed to by the State.  
125

126 The roll was called and showed the following vote:

127  
128 AYE: Naiman, Suer, Messer, Cappel, Bissmeyer, Dobrozsi, Margolis (7)  
129 NAY: (0)  
130

131 **An Ordinance for The Allocation of Earnings Tax Revenues and Amending Section 44.14 of The**  
132 **Montgomery Code of Ordinances**  
133

134 Mr. Suer moved for passage of the first reading of the Ordinance. Mr. Cappel seconded.  
135

136 Mr. Suer explained that information has been previously supplied on this Ordinance that, if approved, would adjust  
137 the allocation of the City's Earnings Tax Revenues. The current allocation is: 80% of Earnings Tax revenues to  
138 the General Fund and 20% to the Capital Improvement Fund. The proposed reallocation would provide 75% of the  
139 Earnings Tax revenues to the General Fund, 20% to the Capital Improvement Fund and 5% to the General Bond  
140 Retirement Fund.  
141

142 Mr. Suer asked if there were any updates.  
143

144 Mr. Donnellon explained that a redlined version of the Ordinance was included in the packet. He stated that it is  
145 suggested that Council enact the text as amended. There is no need to make a motion to amend the Ordinance as it  
146 has not been presented for first reading at this time. Mr. Donnellon explained that Section 2 was added to the  
147 Ordinance to state that the Operating Budget for fiscal year 2022 shall be adjusted to reflect the same  
148 apportionment of the funds as referenced in Section 1 related to fiscal year 2023.  
149

150 The roll was called and showed the following vote:

151  
152 AYE: Suer, Messer, Cappel, Bissmeyer, Dobrozsi, Margolis, Naiman (7)  
153 NAY: (0)  
154

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155 **An Ordinance To Amend Appropriations For Current Expenses And Other Expenditures Of The City Of**  
156 **Montgomery, State Of Ohio, During The Fiscal Year Ending December 31, 2022**  
157

158 Mr. Dobrozsi explained that he would recuse himself from the vote and discussion moving forward. He explained  
159 that although he has no ownership interest in Neyer Properties, Inc. nor any in the limited liability companies in  
160 partnership to develop the Montgomery Quarter, he will continue to recuse himself from discussion and abstain  
161 from voting upon legislation related to the Montgomery Quarter project.  
162

163 Mr. Suer moved suspension of the second and third readings. Mr. Cappel seconded.  
164

165 Mr. Suer explained that information has been previously supplied on this Ordinance that, if approved, would  
166 amend appropriations for current expenses and other expenditures of the City of Montgomery during the Fiscal  
167 Year ending December 31, 2022. It is necessary for City Council to amend the 2022 annual Appropriation  
168 Ordinance to reflect changes in the initial budget as listed in the attached memo.  
169

170 Mr. Suer asked if there were any updates.  
171

172 Mr. Bigham replied there were none.  
173

174 The roll was called and showed the following vote:  
175

176	AYE: Messer, Cappel, Bissmeyer, Margolis, Naiman, Suer	(6)
177	NAY:	(0)
178	ABSTAIN: Dobrozsi	(1)
179		

180 **An Ordinance Renaming Cares Act Relief Payroll Fund 222 To The Pandemic Relief Fund 222,**  
181 **Transferring General Fund Unappropriated Surplus To The Pandemic Relief Fund 222 And The**  
182 **Downtown Improvement Fund 480 To Comply With American Rescue Plan Act Compliance**  
183

184 Mr. Suer moved suspension of the second and third readings. Mr. Cappel seconded.  
185

186 The roll was called and showed the following vote:  
187

188	AYE: Bissmeyer, Dobrozsi, Margolis, Naiman, Suer, Messer, Cappel	(7)
189	NAY:	(0)
190		

191 Mr. Suer moved for passage of the Ordinance. Mr. Cappel seconded.  
192

193 Mr. Suer explained that information has been previously supplied on this Ordinance that, if approved, would bring  
194 the City into compliance with the funding and allocation of funds for the American Rescue Plan Act of 2021. As a  
195 matter of housekeeping, we are renaming the Fund to the Pandemic Relief Fund 222 acknowledging previous  
196 expenditures and the allocation of funds to Downtown Improvement Fund while reserving the balance for future  
197 uses.  
198

199 Mrs. Naiman asked if the ARPA funding has already been received.  
200

201 Mr. Riblet replied that it had but had not yet been spent.  
202

203 Mrs. Naiman asked if the money was included in the 2023 budget or used in 2022.  
204



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205 Mr. Riblet stated that it was included in the 2023 budget but would not be expended until the Ordinance was  
206 passed by Council.

207  
208 Mr. Bigham explained that this legislation was to comply with the federal requirements to transfer \$1,091,236.90  
209 from the Coronavirus Relief Fund 221 to the General Fund 101. The transfer amount from the General Fund 101 to  
210 the Downtown Improvements Fund 480 is \$500,000. The transfer from the General Fund 101 to the Pandemic  
211 Relief Fund 222 is \$591,236.90. These funds will be used for future projects.

212  
213 The roll was called and showed the following vote:

214  
215 AYE: Dobrozsi, Margolis, Naiman, Suer, Messer, Cappel, Bissmeyer (7)  
216 NAY: (0)

217  
218 **A Resolution Approving The Use Of American Rescue Plan Act (ARPA) Funds For Reporting And**  
219 **Compliance To The Us Treasury Department For Fiscal Year 2022**

220  
221 Mr. Suer moved for passage of the Resolution. Mr. Cappel seconded.

222  
223 Mr. Suer explained that information has been previously supplied on this Resolution that, if approved, would  
224 authorize the City Manager to report, as necessary, the receipt and disbursement of funds through the American  
225 Rescue Plan Act of 2021. We have complied with the receipting of funds to the General Fund, but future  
226 compliance reports may be required as funds are expended.

227  
228 Mr. Suer asked if there were any updates.

229  
230 Mr. Bigham replied there none.

231  
232 Mr. Dobrozsi explained that he would recuse himself from the vote and discussion moving forward. He explained  
233 that although he has no ownership interest in Neyer Properties, Inc. nor any in the limited liability companies in  
234 partnership to develop the Montgomery Quarter, he will continue to recuse himself from discussion and abstain  
235 from voting upon legislation related to the Montgomery Quarter project.

236  
237 The roll was called and showed the following vote:

238  
239 AYE: Margolis, Naiman, Suer, Messer, Cappel, Bissmeyer (6)  
240 NAY: (0)  
241 ABSTAIN: Dobrozsi (1)

242  
243 **An Ordinance Correcting Ordinance No. 9, 2018 – An Ordinance Amending The Land Usage Code To**  
244 **Enact New Regulations For The Old Montgomery Gateway District**

245  
246 Vice Mayor Bissmeyer moved for suspension of the second and third readings of the Ordinance. Mr. Messer  
247 seconded.

248  
249 The roll was called and showed the following vote:

250  
251 AYE: Naiman, Suer, Messer, Cappel, Bissmeyer, Dobrozsi, Margolis (7)  
252 NAY: (0)

253  
254

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255 Vice Mayor Bissmeyer explained that information has been previously supplied on this Ordinance that, if  
256 approved, would approve a modification to Ordinance 9, 2018 to include text amendments to Chapters 151.12 and  
257 151.32. These text amendments were previously reviewed and approved by City Council; however, were  
258 inadvertently omitted in the final Codification of Ordinance 9, 2018.

259  
260 Vice Mayor Bissmeyer asked if there were any updates.

261  
262 Mr. Chesar replied there were none.

263  
264 The roll was called and showed the following vote:

265  
266 AYE: Suer, Messer, Cappel, Bissmeyer, Dobrozsi, Margolis, Naiman (7)

267 NAY: (0)

268  
269 **ADMINISTRATION REPORT**

270  
271 Mr. Riblet reported the following items:

- 272
- 273 • City Council Work Session is scheduled for Wednesday, October 19 at 7:00 p.m.
  - 274
  - 275 • As a reminder, the Government Affairs Committee will meet on Monday, October 17 at 3:30 p.m. The  
276 Parks and Recreation and Public Works Committees have cancelled their meetings for the month of  
277 October.
  - 278
  - 279 • Matthew Vanderhorst and Mr. Riblet had a meeting with Julia Hoover our account representative with  
280 SpyGlass. As a reminder, the City contracted with Spyglass three years ago to help oversee digital and  
281 analog contracts and search for redundancies in services, overcharges and underusage of lines to  
282 identify cost savings. Mr. Riblet was happy to report that over this three year term there has been a  
283 savings of \$8,351.04 for charges such as unused wireless devices, Excessive data pricing and taxes  
284 that the City is exempt from. The yearly fee for this service is \$1,450.
  - 285
  - 286 • On the Pfeiffer/Deerfield Roundabout front, Barrett Paving's subcontractor, Rack & Ballauer, has  
287 completed the installation of the new water main, but is still in the process of getting the water main  
288 tested by GCWW and installing the new water service laterals. This work is expected to take a couple  
289 more weeks. When the water main work is complete, Barrett Paving will be constructing "Phase 1" of  
290 the project, which consists of storm drainage infrastructure and temporary pavement to widen the  
291 south side of Pfeiffer Road and the west side of Deerfield Road north of Pfeiffer.
  - 292
  - 293 • Strawser, Inc. has completed the roadway crack seal program for 2022.
  - 294
  - 295 • MSD had to perform an emergency sanitary sewer lateral repair that serves 9309 Montgomery Road,  
296 which is home to the new business Atalo. The owner had indicated that they were having sewer  
297 issues, and working with the City, we discovered that the lateral was damaged at the connection into  
298 the sanitary main in Montgomery Road. Thus, MSD crews mobilized to the location on Tuesday,  
299 open cutting Montgomery Road in the south bound lanes in front of the shared access drive that serves  
300 Atalo, Dunkin Donuts, Avis, etc., to complete the repair.
  - 301
  - 302 • Mr. Riblet reported that he and Ms. Henao met with Ohio National Financial, REDI and JobsOhio to  
303 discuss employment trends in the area and in the City of Montgomery.

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304 Hiring Updates

305

306 • Police Sergeant – City Manager interviews with the top three candidates on the Sergeant eligible list  
307 were conducted on Tuesday.

308

309 • Recreation Specialist – Due to multiple staff members expressing interest in the position, the City will  
310 be conducting an interview process for internal candidates.

311

312 Events

313 • Staff is busy preparing for the Harvest Moon event on Saturday, October 8 from 4:00 to 8:00 p.m. at  
314 Swaim Park.

315

316 • The first Live at the Uni concert will be held on Tuesday, October 11 at Universalist Church. No  
317 Promises Vocal Band will be performing. Concerts will begin at 7:00 p.m. and a reception will occur  
318 immediately following at Montgomery Inn for the first three concerts and at MPH for the last holiday  
319 concert.

320 **APPROVAL OF MINUTES**

321

322 Mayor Margolis asked for a motion to approve the September 15 Budget Review and September 21, 2022 Work  
323 Session minutes.

324

325 Mr. Cappel moved to approve the minutes as written. Vice Mayor Bissmeyer seconded. City Council unanimously  
326 agreed.

327

328 **MAYOR'S COURT REPORT**

329

330 Mayor Margolis asked for a motion to disburse the September Mayor's Court Report in the amount of \$5,850.

331

332 Mr. Cappel made a motion to disburse the September Mayor's Court Report in the amount of \$5,850. Vice Mayor  
333 Bissmeyer seconded. City Council unanimously agreed.

334

335 **OTHER BUSINESS**

336

337 Vice Mayor Bissmeyer reported that she would be out of town the coming weekend.

338

339 Mr. Messer reported that he attended the Hamilton County Partners in Preparedness along with Mayor Margolis,  
340 Chief Wright and Mr. Riblet. He explained that there were representatives from FEMA and the State EMA present  
341 to discuss preparedness and planning for disasters. He stated that he learned that all disasters begin and end locally.

342

343 At the request of the Mayor, Chief Wright gave a brief overview of the City's Emergency Operations Plan. He  
344 explained that in the event of a disaster the plan would be built from the ground up beginning with Hamilton  
345 County EMA then if needed the Ohio EMA would be contacted followed by the Governor declaring a disaster  
346 which is needed for a disaster to be advanced to the federal level to FEMA.

347

348 Mayor Margolis thanked Ms. Henao and Ms. Fredericks for being such good ambassadors at the Vegas in the  
349 Village event.

350

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351 Mayor Margolis thanked his colleagues on Council for providing context and information at the September Work  
352 Session when Kenta Mignot, a local student, visited Council.

353  
354 Mayor Margolis explained that he received a letter from Mayor Christian Demuynck of Neuilly-Plaisance  
355 expressing his desire to resume the sister city exchanges between Montgomery and his city.

356  
357 Mayor Margolis shared that the Hamilton County Municipal League has scheduled a meeting on Saturday,  
358 November 12 with local and state representatives.

359  
360 Mayor Margolis reported that he would be out of town from October 7 through October 17.

361  
362 Mr. Riblet stated that he received late notice of a ribbon cutting ceremony at The Gloss Salon on Thursday,  
363 October 6 from 3:00 to 5:00 p.m.

364  
365 **ADJOURNMENT**

366  
367 Mayor Margolis asked if there was any other business to discuss. There being none, he asked for a motion to  
368 adjourn.

369  
370 Mr. Dobrozsi made a motion to adjourn. Vice Mayor seconded. City Council unanimously agreed.

371  
372 City Council adjourned at 8:05 p.m.

373  
374  
375  
376

---

Connie Gaylor, Clerk of Council