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Legislative Bulletin

An Official Publication of the Hilliard City Council

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ORDINANCES

The following Ordinances were passed on December 13, 2021

21-41 APPROVING THE 2022 CAPITAL IMPROVEMENT BUDGET AND APPROPRIATING FUNDS FOR THE CAPITAL IMPROVEMENT EXPENSES OF THE CITY FOR THE PERIOD ENDING DECEMBER 31, 2022.

WHEREAS, Section 6.09 of the Hilliard City Charter allows for the process of approval of the capital improvement budget to be developed and passed as City Council may establish by ordinance; and

WHEREAS, the City Manager has submitted the 2022 Capital Improvement Budget to City Council; and

WHEREAS, having reviewed the 2022 Capital Improvement Budget, City Council is prepared to proceed with authorizing the 2022 Capital Improvement Expenses as identified in Exhibit "A" attached hereto and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. To provide for the current capital improvement expenses and other expenditures of the City of Hilliard for the fiscal year ending December 31, 2022, the sums indicated in the **attached Exhibit "A"** are hereby set aside and appropriated as set forth therein.

SECTION 2. This Ordinance shall be in full force and effect at the earliest time provided by law.

21-42 AMENDING SECTION 185.02 OF THE CITY'S CODIFIED ORDINANCES REGARDING THE DISBURSEMENT OF THE HOTEL/MOTEL TAX AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH DESTINATION HILLIARD.

WHEREAS, Chapter 185 of the City's Codified Ordinances imposes a hotel/motel excise tax; and

WHEREAS, Section 185.02 provides for the disbursement of funds received due to the excise tax; and

WHEREAS, Destination Hilliard, as required by Ohio Revised Code, is a recipient of a portion of the funds received from the excise tax; and

WHEREAS, the City and Destination Hilliard desire to enter into an agreement whereby the City provides marketing activities for Destination Hilliard; and

WHEREAS, amending the City's Codified Ordinances, as identified in Exhibit "A", attached hereto and incorporated herein, and authorizing an agreement between Destination Hilliard and the City is in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio, that:

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21-42 continued:

SECTION 1. Council finds that amending Section 185.02, as identified in Exhibit "A", **attached** hereto and incorporated herein, is in the City's best interest. The changes and additions to Section 185.02, as shown in track changes in the attached Exhibit "A" are approved and shall be incorporated in the City's Codified Ordinances.

SECTION 2. All other provisions of Section 185.02, not modified herein, remain unchanged and are in full force and effect.

SECTION 3. The City Manager is authorized to enter into a professional services agreement with Destination Hilliard, similar to the agreement **attached** hereto as Exhibit "B". The City Manager is authorized to make such changes to the attached Agreement that are not inconsistent with this Resolution and that are not averse to the City, which shall be evidenced conclusively by her signature thereof that such changes are approved by City Council.

SECTION 4. This Ordinance shall be in effect from and after the earliest time provided for by law.

The First Reading of the following Ordinances was held on December 13, 2021. The Second Reading/Public Hearing is scheduled for January 10, 2022.

21-43 APPROPRIATING FUNDS FOR THE PURPOSE OF PAYING OFF A SHORT TERM NOTE; AND AUTHORIZING THE EXPENDITURE OF FUNDS

WHEREAS, on December 14, 2020, City Council passed Ordinance No. 20-32 authorizing the issuance of a 1.5M short term note for the construction of various public infrastructure improvement projects (the "Note"); and

WHEREAS, the funds from the Note were provided to satisfy its requirements related to the Hickory Chase Development, and

WHEREAS, rather than renewing, the City desires to pay off the Note prior to February 17, 2022, and

WHEREAS, the City desires to utilize funds received from the Wilcox TIF, as well as unappropriated funds in the Capital Fund; and

WHEREAS, by paying off the Note, the City will reduce its debt amount.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An appropriation in the amount of \$534,175.99 is authorized from Fund 304, Object 56 in order to pay off a Short Term Note authorized for construction of various public infrastructure improvement projects.

SECTION 2. City Council authorized the expenditure of funds in the amount of \$534,175.99 from Fund 304, Object 56 to pay off the Note.

SECTION 3. City Council authorizes the expenditure of funds in the amount of \$982,652.14 from Fund 296, Object 59 (the Wilcox TIF) to pay off the Note.

SECTION 4. The City Manager is authorized to sign any document necessary to satisfy the payment of the Note.

SECTION 5. This Ordinance shall be in full force and effect at the earliest time provided for by law.

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21-44 AMENDING CERTAIN SECTIONS OF PART ELEVEN - THE "PLANNING AND ZONING CODE", OF THE CITY'S CODIFIED ORDINANCES REGARDING DEVELOPMENT IN THE B-4, I-270 CORRIDOR ZONING DISTRICT.

WHEREAS, Section 1111.01(d) of the City's Codified Ordinances establishes the B-4, I-270 Corridor Zoning District ("B-4 District"); and

WHEREAS, the B-4 District's purpose is to provide for an intense, mixed-use, high quality development which includes office, residential, retail and personal service opportunities; and

WHEREAS, in order to satisfy these purposes, the Administration is recommending changes to the City's Codified Ordinances; and

WHEREAS, the Administration believes that amending the Code, as identified in Exhibits "A", "B", "C", and "D", attached hereto and incorporated herein, promotes the general health, safety, and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. Council finds that amending Part Eleven of the City's Codified Ordinances - the "Planning and Zoning Code", as identified in Exhibits "A", "B", "C", and "D", **attached** hereto and incorporated herein, is in the City's best interest. The changes and additions to the "Planning and Zoning Code", as shown in track changes in the attached Exhibit "A" are approved and shall be incorporated in the City's Codified Ordinances.

SECTION 2. All other provisions of the "Planning and Zoning Code", not modified herein, remain unchanged and are in full force and effect.

SECTION 3. This Ordinance shall be in effect from and after the earliest time provided for by law.

21-45 AUTHORIZING THE CITY TO ACCEPT ARTICLE 29 INTO THE COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.

WHEREAS, the collective bargaining agreement ("Agreement") between the City and the Fraternal Order of Police, Ohio Labor Council, Inc. (the "OLC") expires on December 31, 2023; and

WHEREAS, through the course of negotiations, the parties were able to arrive at an agreement for Article 29 (Compensation) from January 1, 2022 through December 31, 2023; and

WHEREAS, on November 22, 2021, the City Administration was notified that the union membership had voted to accept Article 29 into the Agreement; and

WHEREAS, the Administration has recommended that Article 29 be approved as being in the best interest of the City; and

WHEREAS, Ohio Revised Code Section 4117.10(B) requires the Administration to submit Article 29 to City Council within 14 days of receipt of the final agreement and City Council shall approve or reject the submission as a whole within 30 days after the Administration submits it for City Council's consideration.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. The City Manager is hereby authorized and directed to execute Article 29 with the Agreement, in accordance with the terms and conditions **attached** hereto as Exhibit "A", excepting any typographical and/or grammatical edits that may be needed for the Agreement to be in final form for execution.

SECTION 2. This Ordinance shall be in effect from and after the earliest time provided for by law.

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RESOLUTIONS

The following Resolutions were passed by Hilliard City Council on December 13, 2021.

21-R-77 APPOINTING JAMES MARTIN TO THE CITY'S BOARD OF ZONING APPEALS.

WHEREAS, Section 1106.01(a) of the Codified Ordinances of the City of Hilliard authorizes City Council to appoint seven members to the Board of Zoning Appeals ("BZA"); and

WHEREAS, BZA members are appointed on rotating five-year terms; and

WHEREAS, by the passage of Resolution No. 17-R-35, Kelly E. Mulrane was appointed to the BZA with term ending December 31, 2021; and

WHEREAS, City Council called for resumes/letters of interests from qualified candidates for new 5-year terms beginning January 1, 2022; and

WHEREAS, James Martin has expressed an interest in serving on the BZA; and

WHEREAS, City Council desires to appoint James Martin to the BZA for a term beginning January 1, 2022 and ending on December 31, 2026; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. James Martin is hereby appointed to the Board of Zoning Appeals for a term beginning January 1, 2022 and ending December 31, 2026.

SECTION 2 This Resolution is effective upon its adoption.

21-R-78 APPROVING THE RE-APPOINTMENT OF MATTHEW FORCHIONE TO THE CITY'S SHADE TREE COMMISSION.

WHEREAS, Section 921.02(a) of the Codified Ordinances of the City of Hilliard authorizes the appointment of members to the Shade Tree Commission; and

WHEREAS, on November 27, 2017, City Council adopted Resolution No. 17-R-10, appointing Matthew Forchione to the Shade Tree Commission, for a term ending December 31, 2021; and

WHEREAS, Mr. Forchione has expressed a desire be reappointed; and

WHEREAS, Mr. Forchione is qualified by profession and experience to accept such re-appointment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. Matthew Forchione is hereby re-appointed to the Shade Tree Commission for a term beginning January 1, 2022 and ending December 31, 2025.

SECTION 2. This Resolution is effective upon its adoption.

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21-R-79 APPROVING THE CHANGE IN DESIGNATION OF CURRENT MEMBERS AND RE-APPOINTING JAY MUETHER TO THE CITY'S PLANNING AND ZONING COMMISSION.

WHEREAS, Article IX, Section 9.01 of the Charter of the City of Hilliard authorizes City Council to appoint seven members to the Planning and Zoning Commission (the "Commission"); and

WHEREAS, the City's Charter requires that one member of the Commission shall be selected from each ward of the City and the remaining members be selected "at-large"; and

WHEREAS, by the passage of Ordinance No. 21-34 on November 8, 2021, City Council approved a new ward map ("Ward Map"), which created a fifth ward; and

WHEREAS, in order to comply with the Charter, it is necessary to change the designations of current members of the Commission; and

WHEREAS, Chris Lewie currently serves on the Commission as a Ward 1 representative, which City Council desires to change that of being a representative from Ward 4 due to the change in the boundaries of the Ward Map; and

WHEREAS, Eric Gutknecht currently serves on the Commission as an "at-large" representative, which City Council desires to change that of being a representative from 1 due to the change in the boundaries of the Ward Map; and

WHEREAS, Jay Muether was appointed to the Commission by the adoption of Resolution No. for a term expiring on December 31, 2021; and

WHEREAS, City Council desires to re-appoint Mr. Muether and designate him as a Ward 5 representative.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. City Council hereby approves the change in designation of Chris Lewie's appointment to the Planning and Zoning Commission from Ward 1 representative to a Ward 4 representative for a term expiring December 31, 2023.

SECTION 2. City Council hereby approves the change in designation of Eric Gutknecht's appointment to the Planning and Zoning Commission from an "at-large" representative to a Ward 1 representative for a term expiring December 31, 2023.

SECTION 3. Jay Muether is hereby re-appointed to the City's Planning and Zoning Commission as a Ward 5 representative for a term beginning January 1, 2022 and ending December 31, 2025.

SECTION 4. This Resolution is effective upon its adoption.

21-R-80 APPROVING COUNCIL'S APPOINTMENT TO THE PUBLIC ARTS COMMISSION.

WHEREAS, the Council of the City of Hilliard created the Public Arts Commission ("PAC") by Resolution No. 16-R-76 on October 24, 2016; and

WHEREAS, on April 26, 2021, Geneia Bellner was appointed to a new two-year term expiring on May 13, 2023; and

WHEREAS, Ms. Bellner submitted a letter of resignation, effective December 1, 2021, and Jon Parker-Jones has been recommended to fill the vacancy; and

WHEREAS, Mr. Parker-Jones has expressed his desire to accept an appointment to the PAC.

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21-R-80 continued:

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. Jon Parker-Jones is hereby appointed to the Public Arts Commission for a term ending May 13, 2023.

SECTION 2. This Resolution shall be effective upon its adoption.

21-R-81 AMENDING ORDINANCE NO. 12-46 (AMENDED) TO EXPAND THE ELIGIBLE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THE PROPERTIES WITHIN THE CONTINENTAL PLANNED UNIT DEVELOPMENT DISTRICT.

WHEREAS, on July 9, 2012, City Council passed Ordinance No. 12-46 (Amended) (the "Original TIF Ordinance") declaring the Improvement (as defined in the Original TIF Ordinance) of 26.518± acres, generally located along the west side of Britton Parkway, south of Reynolds Drive, east of the CSX railroad tracks, and north of Cemetery Road, with an address of 4300 Cemetery Road (the "Exempted Areas") to be a public purpose under Ohio Revised Code Section 5709.40(B) and exempting from real property taxation seventy-five percent (75%) of the Improvements as each Improvement is constructed and located in certain subareas within the Exempted Areas, for a period not to exceed ten (10) years, as permitted and provided in Ohio Revised Code Section 5709.40(B); and

WHEREAS, on September 24, 2012, City Council passed Ordinance No. 12-53 (Amended) (the "Amended TIF Ordinance") which amended the Tax Increment Financing Program with respect to certain property located at 4300 Cemetery Road and approved a revised Tax Increment Financing Agreement with Britton Parkway GE, LLC; and

WHEREAS, the Original TIF Ordinance required the current and future owner(s) of parcels within the Exempted Subareas (each individually an "Owner" and collectively the "Owners") to make annual service payments in lieu of real property taxes with respect to the Exempted Portion of the Improvements (as defined in the Original TIF Ordinance) in the same amount as the real property tax payments they would have made but for the exemption provided by the Original TIF Ordinance (the "Service Payments"); and

WHEREAS, the Original TIF Ordinance identified and defined certain Public Infrastructure Improvements that shall be constructed for the direct benefit of the Exempted Subareas; and

WHEREAS, additional public improvements have been identified that will directly benefit the Continental PUD.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard that

SECTION 1. Section 5 of the Original TIF Ordinance shall be amended to read as follows:

Section 5. The City hereby designates capacity, safety, or accessibility improvements for vehicular traffic and/or pedestrian/bicycle traffic, beautification, landscape and/or streetscape improvements and related utilities along the I-270 and Cemetery Road corridors, development of a public transit center and the Public Infrastructure Improvements described in Exhibit "B", attached hereto and incorporated herein, as Public Infrastructure Improvements that, once made, will directly benefit the Exempted Subareas.

SECTION 2. The provisions of the Original TIF Ordinance and Amended TIF Ordinance, except to the extent that they are modified and amended by this Resolution, are hereby ratified and remain in full force and effect.

SECTION 3. The City Manager is authorized and directed to take such actions as are necessary to appropriate to implement the actions described herein, or that are contemplated by this Resolution.

SECTION 4. This Resolution is effective upon its adoption.

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21-R-82 AUTHORIZING THE TRANSFER OF FUNDS TO THE CAPITAL IMPROVEMENT FUND.

WHEREAS, Section 6.10 of the City's Charter permits City Council to authorize, by resolution, the transfer of funds during the fourth quarter of the fiscal year; and

WHEREAS, as required by their respective ordinances, the City's Finance Department has been collecting and maintaining Tax Increment Financing ("TIF") service payments in the following funds:

- Fund 286 - Baumeister TIF (Ordinance No. 05-63)
- Fund 287 – Pingree TIF (Ordinance No, 13-45)
- Fund 289 – One Mill Run TIF (Ordinance No. 14-19)
- Fund 301 – Bo Jackson TIF (Ordinance No. 16-20)

WHEREAS, in each of the funds listed above, money is available to transfer to the City's Capital Improvement Fund, Fund 304, in order to reimburse the City for costs already expended; and

WHEREAS, specifically, the transferred money will reimburse costs expended for:

- The Bo Jackson Parking Lot
- IT-11 Fiber
- T-147 Main St./Hilliard Rome Corridor
- T- 84 Riggins Rd Improvements
- T-21 Scioto Darby Improvements
- T-129 Leppert Road Improvements

WHEREAS, it is in the City's and its residents' best interest to approve of the transfer of funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. City Council approves transferring of funds to the Capital Improvement Fund 304 in the following amounts:

- \$447,084.58 from the Baumeister TIF Fund 286
- \$2,539.91 from the Pingree TIF Fund 287
- \$28,749.22 from the One Mill Run TIF Fund 289
- \$44,042.38 from the Bo Jackson TIF Fund 301

SECTION 2. The Finance Director is authorized and directed to transfer the following amounts to the Capital Improvement Fund 304:

- \$447,084.58 from the Baumeister TIF Fund 286
- \$2,539.91 from the Pingree TIF Fund 287
- \$28,749.22 from the One Mill Run TIF Fund 289
- \$44,042.38 from the Bo Jackson TIF Fund 301

SECTION 3. This Resolution is effective upon its adoption.

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21-R-83 AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BURGESS & NIPLE, INC., TO CONDUCT A FEASIBILITY STUDY AND TO PREPARE GRANT APPLICATIONS FOR THE CEMETERY ROAD/I-270 TRAIL OVERPASS & SAFETY IMPROVEMENTS AND AUTHORIZING AN EXPENDITURE.

WHEREAS, on September 9, 2019, Hilliard City Council passed Resolution 19-R-76, which authorized the City to apply to the Mid-Ohio Regional Planning Commission for technical assistance to conduct a study of the Cemetery Road corridor to identify opportunities for redevelopment to meet the future needs of the community; and

WHEREAS, as part of the Cemetery Road corridor study, barriers to safety for non-motorized users on Cemetery Road were identified and recommendations were presented to improve the environment along the corridor in the future; and

WHEREAS, I-270 is a barrier to connectivity of the City's trail and sidewalk network, and Cemetery Road, with its high volume of vehicular traffic, presents a high stress environment for non-motorized users; and

WHEREAS, a feasibility study is required to evaluate alternatives and estimate costs to improve safety and accessibility for vulnerable road users; and

WHEREAS, in order to advance a project of this nature, the City would need to apply for grants through federal funding programs; and

WHEREAS, the City has determined that Burgess & Niple, Inc. (the "Firm") is the most qualified firm to conduct the feasibility study based on technical expertise, related experience and training of the Project Team, and past performance; and

WHEREAS, the estimated cost to provide professional services by the Firm for the feasibility study and submission of grant applications, including "if authorized" tasks and a ten percent contingency, is \$115,750; and

WHEREAS, funds for citywide Safety & Capacity Improvements are appropriated annually as part of the Capital Improvement Budget to cover the cost of the feasibility study.

WHEREAS, Ohio Revised Code ("R.C.") Section 5705.44 provides that when a contract runs beyond the fiscal year in which it is made, the fiscal officer shall make a certification for the amount required to meet the obligation of the contract in the current fiscal year and the remaining amount of the obligation under such contract shall be included in the annual appropriation measure for the next fiscal year; and

WHEREAS, pursuant to Section 3.10 of the Charter, authorization for fund this Project may be established by resolution of Council; and

WHEREAS, "if authorized" tasks are approved, as required by R.C. Section 5705.44, the City will request that Council appropriate additional funds for the Project in the City's 2022 Capital Improvement Budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An expenditure in an amount not to exceed \$115,750 is authorized from Fund 202/206 Object 55.

SECTION 2. Following the appropriation of the balance of funds for "if authorized" tasks and contingencies in the City's 2022 Capital Improvement Budget, an expenditure is authorized in 2022 from the unencumbered balance of 202/206 Object 55 in an amount not to exceed \$25,000 to complete the Project.

SECTION 3. The City Manager is hereby authorized to enter into a professional services agreement ("Agreement") with Burgess & Niple, Inc. in substantially the same form as the one **attached** hereto as Exhibit "A" and incorporated herein, for a feasibility study and preparation of grant applications for the Cemetery Road/I-270 Trail Overpass & Safety Improvements.

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21-R-83 continued:

The City Manager is authorized to make such changes to the Agreement that are not inconsistent with this Resolution and not adverse to the City.

SECTION 4. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds provided herein.

SECTION 5. This Resolution is effective upon its adoption.

21-R-84 AUTHORIZING THE CITY MANAGER ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BURGESS AND NIPLE, INC. FOR THE OLD HILLIARD UTILITY STUDY

WHEREAS, the completion of many City projects in the past ten years (the Main Street streetscape project, First Responders Park, and Hilliard Station Park), as well as the opening of many new businesses in Old Hilliard (Center Street Market, Starliner Diner, Legacy Smokehouse, Hilliard Station Baking Company) has spurred a tremendous amount of interest in locating businesses and residential facilities in Old Hilliard; and

WHEREAS, as a result of the redevelopment that has occurred thus far, the City has become aware of some areas of Old Hilliard that lack proper public utilities; and

WHEREAS, with future redevelopment opportunities on the horizon, the City will need properly sized and located public utilities to support future business and residential growth in Old Hilliard; and

WHEREAS, in order to understand the inadequacies of the existing public utilities in Old Hilliard, as well as the need for future utility upgrades and construction, the City identified the need for a utility study in Old Hilliard; and

WHEREAS, the City requested and received a scope of services and a quote from Burgess and Niple, Inc. to complete a utility study specifically in the Old Hilliard area, as described and depicted in Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, completion of this study will not only identify existing public utilities that need upgraded, but also propose any new public utility needs to serve future growth in Old Hilliard; and

WHEREAS, at the regular meeting on October 25, 2021, City Council approved a distribution of the ARPA funds that included \$82,500 for the Old Hilliard Utility Study; and

WHEREAS, it is in the best interest of the City of Hilliard and the public at large that the City complete the Old Hilliard Utility Study as noted above.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An expenditure is authorized in the amount of Eighty-Two Thousand, Five Hundred Dollars (\$82,500) from Fund 898, Object 53 to fund the Old Hilliard Utility Study with Burgess and Niple, Inc.

SECTION 2. The City Manager is authorized to enter into a professional services agreement (PSA) with Burgess and Niple, Inc. for the services attached hereto as Exhibit "A", in the amount of Seventy-Nine Thousand Dollars (\$79,000) to complete the Old Hilliard Study for the City (the "Agreement"). This includes a 10-percent contingency amount above Burgess and Niple, Inc.'s proposed fee.

SECTION 3. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds provided herein.

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21-R-84 continued:

SECTION 4. This Resolution is effective upon its adoption.

21-R-85 AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH MCCARTHY CONSULTING, LLC, TO BE THE OWNER'S REPRESENTATIVE FOR THE COMMUNITY CENTER CONSTRUCTION PROJECT.

WHEREAS, on November 2, 2021, City electors approved increasing the City's municipal income tax by 0.5% of dedicating the resulting funds for recreation and parks, including (but not limited to) construction of a community center; and

WHEREAS, in order to move forward with the construction of the community center and recreation and wellness campus site (the "Project"), it is necessary to engage an "Owner's Representative", which will oversee and assist the City with all phases of the Project; and

WHEREAS, the City desires to engage McCarthy Consulting, LLC, which has offered a proposal, attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, Ohio Revised Code ("R.C.") Section 5705.44 provides that when a contract runs beyond the fiscal year in which it is made, the fiscal officer shall make a certification for the amount required to meet the obligation of the contract in the current fiscal year and the remaining amount of the obligation under such contract shall be included in the annual appropriation measure for the next fiscal year; and

WHEREAS, funds were appropriated in the 2021 Operating Budget, and pursuant to Section 3.10 of the Charter, authorization for funding this Project may be established by resolution of Council; and

WHEREAS, as required by R.C. Section 5705.44, the City will request that Council appropriate additional funds for the Project in the City's 2022 Capital Improvement Budgets.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. An expenditure is authorized from Fund 101 Object 53 in an amount not to exceed \$12,925 in order to initiate the Professional Services Agreement with McCarthy Consulting, LLC.

SECTION 2. Following the appropriate of the balance of funds for the Project, an expenditure is authorized in 2022 from the unencumbered balance of Fund 103 Object 53 in the amount of \$249,160.

SECTION 3. The City Manager is hereby authorized to enter into a professional services agreement ("Agreement") with McCarthy Consulting, LLC in substantially the same form as the one **attached** hereto as Exhibit "B" and incorporated herein, in an amount not to exceed \$262,085. The City Manager is authorized to make such changes to the Agreement that are not inconsistent with this Resolution and not adverse to the City.

SECTION 4. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds provided herein.

SECTION 5. This Resolution is effective upon its adoption.

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21-R-86 WAIVING THE UNDERGROUND RELOCATION OF AMERICAN ELECTRIC POWER (AEP) AND JOINT USER FACILITIES ASSOCIATED WITH THE CONSTRUCTION OF CAPITAL IMPROVEMENT PROJECT (CIP) S-28 UPPER SCIOTO WEST SUB-TRUNK SEWER PROJECT AND THE CONSTRUCTION OF THE CARR FARMS SUBDIVISION.

WHEREAS, the Upper Scioto West Sanitary Sewer Sub Trunk (CIP S-28) consists of the construction of a new trunk sanitary sewer and sewer lift station that will service the Carr Farms subdivision, a new Amazon Data Service site on Cosgray Road, and in a second phase Homestead Metro Park and parts of the Tarlton Meadows subdivision; and

WHEREAS, the purpose of the Project is to provide sanitary sewer services to properties within the Hilliard Sewer Service Area along Cosgray and Leppert Roads; and

WHEREAS, plans for the Project are complete and a construction contract has been awarded to Savko Inc; and

WHEREAS, construction of a new sanitary sewer lift station requires three phase power that must be extended to the Carr Farms site; and

WHEREAS, American Electric Power desires to upgrade poles to facilitate the extension of three phase power and provide additional room along Leppert Road for the proposed development; and

WHEREAS, by the passage of Ordinance No. 06-41(Amended), the City's Code was amended to require that all utility facilities be placed underground within dedicated utility easements or streets, alleys, properties and rights-of-way, which requirement was codified in Chapter 941 of the City's Code; and

WHEREAS, American Electric Power (AEP) and joint users (cable and telecommunication) facilities are currently located above ground on poles in public right-of-way within the Project limits and must be upgraded to facilitate the construction of the Project; and

WHEREAS, if AEP facilities are required to relocate underground in accordance with Chapter 941 of the Codified Ordinances, the City will be responsible to pay for the differential cost between the underground and overhead relocation; and

WHEREAS, AEP has provided construction estimates totaling \$24,815.74 for the overhead relocation and \$167,580.51 for the underground relocation; and

WHEREAS, the differential cost between the overhead and underground utility relocation, which would be required to be paid by the City, is estimated at \$142,764.77; and

WHEREAS, the estimates do not include costs that may be incurred by the City to relocate joint users on the poles (cable and telecommunication facilities) underground; and

WHEREAS, AEP estimates that their overhead facilities can be upgraded overhead for the Project in accordance with the Project schedule; and

WHEREAS, based on the increased cost to the public and delay in the Project, the relocation of AEP facilities from overhead to underground is deemed impracticable.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. Pursuant to Section 941.03 of the City's Codified Ordinances, Hilliard City Council finds that it is in the City's best interest, and that of its residents, to grant a waiver to AEP and all joint users on AEP poles within the Project limits to remain overhead when relocated for the Upper Scioto West Sanitary Sewer Sub-Trunk Improvement Project (CIP S-28).

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21-R-86 continued:

SECTION 2. This Resolution is effective upon its adoption.

21-R-87 RE-APPOINTING ONE CITIZEN MEMBER TO THE BOARD OF TRUSTEES OF THE HERITAGE PRESERVE NEW COMMUNITY AUTHORITY.

WHEREAS, on February 26, 2018, City Council adopted Resolution No. 18-R-19 appointing Charles R. Evans to the Board of Trustees of the Heritage Preserve New Community Authority (“Board”), for term ending on January 11, 2022 (the second Tuesday of January); and

WHEREAS, Mr. Evans has expressed a desire and willingness to continue to serve as a Trustee and to accept a reappointment to the Board.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. Hilliard City Council reappoints Mr. Charles Evans to the Heritage Preserve Board of Trustees as citizen member for a three-year term beginning January 12, 2021 and ending January 9, 2024.

SECTION 2. This Resolution is effective upon its adoption.

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