

The City Record

Official Publication of the Council of the City of Cleveland



December the Twenty-Second, Two Thousand and Four

Jane L. Campbell
Mayor

Frank G. Jackson
President of Council

Valarie J. McCall
City Clerk, Clerk of Council

Ward	Name
1	Joseph T. Jones
2	Robert J. White
3	Zachary Reed
4	Kenneth L. Johnson
5	Frank G. Jackson
6	Patricia J. Britt
7	Fannie M. Lewis
8	Sabra Pierce Scott
9	Kevin Conwell
10	Roosevelt Coats
11	Michael D. Polensek
12	Edward W. Rybka
13	Joe Cimperman
14	Nelson Cintron, Jr.
15	Merle R. Gordon
16	Michael C. O'Malley
17	Matthew Zone
18	Jay Westbrook
19	Dona Brady
20	Martin J. Sweeney
21	Michael A. Dolan

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Frank G. Jackson

Ward	Name	Residence	
1	Joseph T. Jones	4691 East 177th Street	44128
2	Robert J. White	9703 Cardwell Avenue	44105
3	Zachary Reed	3734 East 149th Street	44120
4	Kenneth L. Johnson	2948 Hampton Road	44120
5	Frank G. Jackson	2327 East 38th Street	44115
6	Patricia J. Britt	12402 Britton Drive	44120
7	Fannie M. Lewis	7416 Star Avenue	44103
8	Sabra Pierce Scott	9212 Kempton Avenue	44108
9	Kevin Conwell	10647 Ashbury Avenue	44106
10	Roosevelt Coats	1775 Cliffview Road	44112
11	Michael D. Polensek	17855 Brian Avenue	44119
12	Edward W. Rybka	6832 Indiana Avenue	44105
13	Joe Cimperman	3053 West 12th Street	44113
14	Nelson Cintron, Jr.	3004 Vega Avenue	44113
15	Merle R. Gordon	1700 Denison Avenue	44109
16	Michael C. O'Malley	6710 Brookside Drive	44144
17	Matthew Zone	1228 West 69th Street	44102
18	Jay Westbrook	1278 West 103rd Street	44102
19	Dona Brady	1272 West Boulevard	44102
20	Martin J. Sweeney	3632 West 133rd Street	44111
21	Michael A. Dolan	16519 West Park Road	44111

City Clerk, Clerk of Council – Valarie J. McCall, 216 City Hall, 664–2840
First Assistant Clerk – Sandra Franklin

MAYOR – Jane L. Campbell

Debra M. Janik, Chief of Staff
Darnell Brown, Chief Operating Officer
Timothy Mueller, Executive Assistant
Craig Tame, Executive Assistant
Galen L. Schuerlein, Executive Assistant
_____, Director, Office of Equal Opportunity
Margreat A. Jackson, Legislative Affairs Liaison
Erik Janas, Inter-Governmental Affairs Officer
Lorna Wisham, Chief Public Affairs Officer

DEPT. OF LAW – Subodh Chandra, Director, Teresa Beasley, Chief Counsel, Rm. 106
Karen E. Martines, Law Librarian, Room 100

DEPT. OF FINANCE – Robert H. Baker, Director, Room 104;
Frank Badalamenti, Manager, Internal Audit

DIVISIONS: Accounts – Alan Schneider, Commissioner, Room 19
Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122
City Treasury – Algeron Walker, Treasurer, Room 115
Financial Reporting and Control – James Gentile, Controller, Room 18
Information Technology and Services – James S. Higgins, Commissioner, 1404 East 9th Street
Purchases and Supplies – Myrna Branche, Commissioner, Room 128
Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue
Taxation – Nassim Lynch, Tax Administrator, 1701 Lakeside Avenue

DEPT. OF PUBLIC UTILITIES – Julius Ciaccia, Director, 1201 Lakeside Avenue

DIVISIONS – 1201 Lakeside Avenue
Cleveland Public Power – James F. Majer, Commissioner
Street Lighting Bureau – _____, Acting Chief
Utilities Fiscal Control – Dennis Nichols, Commissioner
Water – John Christopher Nielson, Commissioner
Water Pollution Control – Ollie Shaw, Commissioner

DEPT. OF PORT CONTROL – John C. Mok, Director

Cleveland Hopkins International Airport, 5300 Riverside Drive
Burke Lakefront Airport – Khalid Bahur, Commissioner
Cleveland Hopkins International Airport – Fred Szabo, Commissioner

DEPT. OF PUBLIC SERVICE – Mark Ricchiuto, Director, Room 113

DIVISIONS: Architecture – Kurt Wiebusch, Commissioner, Room 517
Engineering and Construction – Randall E. DeVaul, Commissioner, Room 518
Motor Vehicle Maintenance, Daniel A. Novak, Commissioner, Harvard Yards
Streets – Randall T. Scott, Commissioner, Room 25
Traffic Engineering – Robert Mavec, Commissioner, 4150 East 49th Street, Building #1
Waste Collection and Disposal – Ron Owens, Commissioner, 5600 Carnegie Avenue

DEPT. OF PUBLIC HEALTH – Matthew Carroll, Director, Mural Building, 1925 St. Clair Ave.

DIVISIONS: Air Quality – _____, Commissioner
Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.
Environment – Willie Bess, Acting Commissioner, Mural Building, 1925 St. Clair Ave.
Health – Dr. Wendy Johnson, Acting Commissioner, Mural Building, 1925 St. Clair Ave.

DEPT. OF PUBLIC SAFETY – Sanford E. Watson, Director, Room 230

DIVISIONS: Dog Pound – John Baird, Chief Dog Warden, 2690 West 7th Street
Emergency Medical Service – Edward Eckart, Commissioner, 1708 South Pointe Drive
Fire – Paul A. Stubbs, Chief, 1645 Superior Avenue
Police – Edward F. Lohn, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street

DEPT. OF PARKS, RECREATION & PROPERTIES – Natalie A. Ronayne, Director

Cleveland Convention Center, Clubroom A, 1220 East 6th Street
DIVISIONS: Convention Center & Stadium – James Glending, Commissioner
Public Auditorium, East 6th Street and Lakeside Avenue
Parking Facilities – Dennis Donahue, Commissioner
Public Auditorium, East 6th Street and Lakeside Avenue
Park Maintenance and Properties – Richard L. Silva, Commissioner
Public Auditorium – East 6th Street and Lakeside Avenue
Property Management – Tom Nagle, Commissioner, East 49th Street & Harvard
Recreation – Michael Cox, Commissioner, Room 8
Research, Planning & Development – Mark Fallon, Commissioner, 1501 N. Marginal Road
Burke Lakefront Airport

DEPT. OF COMMUNITY DEVELOPMENT – Daryl Rush, Director, 3rd Floor, City Hall
DIVISIONS: Administrative Services – Terrence Ross, Commissioner
Neighborhood Services – Louise V. Jackson, Commissioner
Neighborhood Development – Joseph A. Sidoti, Commissioner

DEPT. OF BUILDING AND HOUSING – James G. Williams, Director, Room 500
DIVISIONS: Code Enforcement – Tyrone L. Johnson, Commissioner
Construction Permitting – Timothy R. Wolosz, Commissioner

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Gina Routen, Director, Room 121

DEPT. OF ECONOMIC DEVELOPMENT – Gregory G. Huth, Director, Room 210

DEPT. OF AGING – Jane E. Fumich, Director, Room 122

DEPT. OF CONSUMER AFFAIRS – Kenya Taylor, Director

COMMUNITY RELATIONS BOARD – Room 11, Jeffrey D. Johnson, Director; Mayor Jane L. Campbell, Chairman Ex-Officio; Rev. Charles Lucas, Jr., Vice-Chairman; Councilman Kevin Conwell, Councilman Matthew Zone, City Council Representatives; Charles L. Patton, Jr., Paula Castleberry, Emmett Saunders, John Banno, Kathryn M. Hall, Evangeline Hardaway, Janet Jankura, Gia Hoa Ryan, Rev. Jesse Harris, Magda Gomez, Fred J. Livingstone, Margot James Copeland.

CIVIL SERVICE COMMISSION – Room 119, Reynaldo Galindo, President; Rev. Earl Preston, Vice President; Jonalyn M. Krupka, Secretary; Members: Diane M. Downing, William Morrison.

SINKING FUND COMMISSION – Jane L. Campbell, President; Council President Frank G. Jackson; Betsy Hruby, Asst. Sec'y.; Robert H. Baker, Director.

BOARD OF ZONING APPEALS – Room 516, Carol A. Johnson, Chairman; Members: Margaret Hopkins, Ozell Dobbins, Joan Shaver Washington, Tim Donovan, _____, Secretary.

BOARD OF BUILDING STANDARDS AND BUILDING APPEALS – Room 516, J. F. Denk, Chairman; James Williams, Arthur Saunders, Alternate Members – D. Cox, P. Frank, E. P. O'Brien, Richard Pace, J.S. Sullivan.

BOARD OF REVISION OF ASSESSMENTS – Law Director Subodh Chandra, President; Finance Director Robert H. Baker, Secretary; Council President Frank G. Jackson.

BOARD OF SIDEWALK APPEALS – Service Director Mark Ricchiuto; Law Director Subodh Chandra; Councilman Martin J. Sweeney.

BOARD OF REVIEW – (Municipal Income Tax) – Law Director Subodh Chandra; Utilities Director _____; Council President Frank G. Jackson.

CITY PLANNING COMMISSION – Room 501 – Christopher S. Ronayne, Director; Anthony J. Coyne, Chairman; David Bowen, Lillian W. Burke, Lawrence A. Lumpkin, Gloria Jean Pinkney, Rev. Sam Edward Small, Councilman Joseph Cimperman.

FAIR EMPLOYMENT WAGE BOARD – Room 210 – Gerald Meyer, Chair; Angela Caldwell, Vice Chair; Patrick Gallagher, Kathryn Jackson, Draydean McCaleb, Council Member Nelson Cintron, Ed Romero.

HOUSING ADVISORY BOARD – Room 310 – Keith Brown, Terri Hamilton Brown, Vickie Eaton-Johnson, Mike Foley, Eric Hodderson, Janet Loehr, Mark McDermott, Marcia Nolan, David Perkowski, Joan Shaver Washington, Keith Sutton, Council Member Merle Gordon.

FAIR HOUSING BOARD – Charles See, Chair; Cindy Barber, Vice Chair; Michael Doud, Doris Honsa, Richard Lenard.

CLEVELAND BOXING AND WRESTLING COMMISSION – Robert Jones, Chairman; Clint Martin, Mark Rivera.

MORAL CLAIMS COMMISSION – Law Director Subodh Chandra; Chairman; Finance Director Robert H. Baker; Council President Frank G. Jackson; Councilman Dona Brady; Councilman Martin J. Sweeney.

BOARD OF EXAMINERS OF ELECTRICIANS – Samuel Montfort, Chairman; Donald Bauknight, Anton J. Eichmuller, J. Gilbert Steele, Raymond Ossovicki, Chief Electrical Inspector; Laszlo V. Kemes, Secretary to the Board.

BOARD OF EXAMINERS OF PLUMBERS – Joseph Gyorky, Chairman; Earl S. Bumgarner, Alfred Fowler, Jozef Valencik, Lawrence Skule, Chief Plumbing Inspector; Laszlo V. Kemes, Secretary to the Board.

CLEVELAND LANDMARKS COMMISSION – Room 519 – Paul Volpe, Chair; Ted Sande, Vice Chair; James Gibans, India Pierce Lee, Robert Madison, Randall B. Shorr, Chris Ronayne, N. Kurt Wiebusch, Council Member Joe Cimperman, Dwayne J. Simpson; Robert Keiser, Secretary.

CLEVELAND MUNICIPAL COURT JUSTICE CENTER – 1200 ONTARIO STREET JUDGE COURTROOM ASSIGNMENTS

Judge	Courtroom
Presiding and Administrative Judge Larry A. Jones	14B
Judge Ronald B. Adrine	15A
Judge Emanuella Groves	13A
Judge Mabel M. Jasper	14D
Judge Kathleen Ann Keough	13D
Judge Mary Eileen Kilbane	14C
Judge Anita Laster Mays	12B
Judge Lauren C. Moore	12C
Judge Raymond L. Pianka (Housing Court Judge)	13B
Judge Angela R. Stokes	15C
Judge Pauline H. Tarver	12A
Judge Robert J. Triozzi	14A
Judge Joseph J. Zone	13C

Earle B. Turner – Clerk of Courts, Michael E. Flanagan – Court Administrator, Paul J. Mizerak – Bailiff; Regina Daniel – Chief Probation Officer, Gregory F. Clifford – Chief Magistrate

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OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

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WEDNESDAY, DECEMBER 22, 2004

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CITY COUNCIL

MONDAY, DECEMBER 20, 2004

The City Record

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216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 2002-2005

MONDAY

9:30 A.M. — **Public Parks, Property & Recreation Committee:** Johnson, Chairman; White, Vice Chairman; Cimperman, Dolan, Jones, Rybka, Sweeney.

MONDAY—Alternating

11:00 A.M. — **Public Service Committee:** Sweeney, Chairman; Jones, Vice Chairman; Brady, Cimperman, Johnson, O'Malley, Polensek, White, Zone.

11:00 A.M. — **Employment, Affirmative Action & Training Committee:** Lewis, Chairman; Conwell, Vice Chairman; Cintron, Coats, Johnson, Reed, Polensek.

MONDAY

2:00 P.M. — **Finance Committee:** Jackson, Chairman; Sweeney, Vice Chairman; Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

TUESDAY

9:30 A.M. — **Community and Economic Development Committee:** Gordon, Chairman; Cimperman, Vice Chairman; Cintron, Coats, Jones, Lewis, Reed, Pierce Scott, Zone.

TUESDAY—Alternating

1:00 P.M. — **Health & Human Services Committee:** Britt, Chairman; Zone, Vice Chairman; Cintron, Conwell, Gordon, Pierce Scott, Polensek.

1:30 P.M. — **Legislation Committee:** White, Chairman; Pierce Scott, Vice Chairman; Dolan, Gordon, Johnson, Rybka, Westbrook.

WEDNESDAY—Alternating

10:00 A.M. — **Aviation & Transportation Committee:** Westbrook, Chairman; Sweeney, Vice Chairman; Britt, Dolan, Gordon, Reed, Rybka.

10:00 A.M. — **Public Safety Committee:** Reed, Chairman; Britt, Vice Chairman; Brady, Cimperman, Coats, Conwell, Jones, White, Zone.

WEDNESDAY—Alternating

1:30 P.M. — **Public Utilities Committee:** Coats, Chairman; O'Malley, Vice Chairman; Brady, Cintron, Jones, Polensek, Sweeney, Westbrook, Zone.

1:30 P.M. — **City Planning Committee:** Cimperman, Chairman, Rybka, Vice Chairman, Conwell, Lewis, O'Malley, Pierce Scott, Westbrook.

The following Committees are subject to the Call of the Chairman:

Rules Committee: Jackson, Chairman; O'Malley, Reed, Sweeney, Westbrook.

Personnel and Operations Committee: Gordon, Chairman; Britt, Cimperman, Coats, Pierce Scott.

Mayor's Appointment Committee: Coats, Chairman; Cintron, Reed, Pierce Scott, Westbrook.

OFFICIAL PROCEEDINGS CITY COUNCIL

NO MEETING

THE CALENDAR

The following measures will be on their final passage at the next meeting:

NONE

BOARD OF CONTROL

December 15, 2004

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, December 15, 2004, at 10:30 a.m. with Mayor Campbell presiding.

Present: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Act-

ing Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Absent: None.

Others: Mike Abouserhal, Acting Commissioner, Purchases and Supplies.

Collette Appolito, Director, Office of Equal Opportunity.

On motions, the following resolutions were adopted, except as may be otherwise noted:

Resolution No. 703-04.

By Director Baker.

Be it resolved by the Board of Control of the City of Cleveland, that all bids received on September 22, 2004, for fiber optic cable and hardware necessary to install fiber optic cable between the Third District Police Station and 205 St. Clair Avenue in order to achieve full redundancy and a closed loop in the City's INET, for the various divisions of City Government, pursuant to the authority of Ordinance No. 1257-04, passed by the Council of the City of Cleveland on August 11, 2004, are rejected.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 704-04.

By Director Baker.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Nextel West Corp. d/b/a Nextel Communications, Inc. for an estimated quantity of wireless data devices and services, items 2a & 2b, for the various divisions of City Government, for a period of one (1) year, with two (2) one-year options to renew, beginning with the date of execution of a contract, received on the 22nd day of September, 2004, under the authority of Ordinance No. 1704-02, passed September 16, 2002, as amended by Ordinance No. 2224-03, passed December 15, 2003, which on the basis of the estimated quantity would amount to One Hundred Twenty-Seven Thousand Seven Hundred Sixty-Four Dollars (\$127,764.00) (Net), is affirmed and approved as the lowest and best bid, and the Director of Finance is requested to enter into requirement contract for the commodities, which shall provide for the immediate purchase as the initial amount of the contract of the following:

Requisition No. 141873

which shall be certified against such contract in the sum of Six Thousand Three Hundred Eighty-Eight and 20/100 Dollars (\$6,388.20).

The requirement contract shall further provide that the Contractor will furnish the remainder of the requirements for such commodities, whether more or less than the estimated quantity, as maybe ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 705-04.

By Director Ciaccia.

Resolved by the Board of Control of the City of Cleveland that the bid of Marsh USA Inc. for the following: Fire, Boiler and Machinery & Extended Insurance Coverage for various locations for a term of one year, all items, for the Division of Cleveland Public Power, Department of Public Utilities, received on the 24th day of November 2004, pursuant to the authority of Ordinance No. 1078-02, passed June 17, 2002, which on the basis of the order quantity would amount to \$325,000.00, is hereby approved as the lowest and best bid, and the Director of Public Utilities is hereby requested to enter into contract for such items.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractor by Marsh USA Inc. for fire, boiler and machinery & extended insurance coverage for various locations for the above-mentioned Standard Contract is hereby approved:

<u>SUBCONTRACTOR</u>	<u>MBE/FBE</u>
Pinkney-Perry Insurance	\$8,125.00 (MBE)(2.50%)

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 706-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Weatherproofing Technologies, Inc. for an estimated quantity of labor and materials needed to repair or replace roofs and appurtenances (all items), for the Divisions of Water, Cleveland Public Power, and Water Pollution Control, Department of Public Utilities, for a period of two (2) years beginning with the later of the date of execution of a contract or receipt of a notice to proceed, received on the 1st day of October, 2004, under the authority of Ordinance No. 2312-03, passed December 15, 2003, which on the basis of the

estimated quantity would amount to One Million Five Hundred Forty Thousand Two Hundred Twenty Eight Dollars and 09/100 Cents (\$1,540,228.09) (Net 30 Days), is affirmed and approved as the lowest and best bid, and the Director of Public Utilities is requested to enter into a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 148911

which shall be certified against such contract in the sum of Two Hundred Forty Five Thousand Nine Hundred Twenty Two Dollars (\$245,922.00).

The requirement contract shall further provide that the Contractor will furnish the remainder of the requirement for such commodities, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 707-04.

By Director Ricchiuto.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Frank Blackmon for an estimated quantity of lubricants items 1-7, for the Division of Motor Vehicle Maintenance, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract, received on October 27, 2004, pursuant to the authority of Ordinance No. 763-04, passed by the Council of the City of Cleveland on May 17, 2004, which on the basis of the estimated quantity would amount to Forty Nine Thousand Nine Hundred Sixty and 20/100 Dollars (\$49,960.20) (2% 30 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 154004

which shall be certified against such contract in the sum of Five Thousand and no/100 Dollars (\$5,000.00).

Said requirement contract shall further provide that the Contractor shall furnish the remainder of the City's requirements for such goods and/or services, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 708-04.

By Director Ronayne.

Whereas, under authority of Ordinance No. 1114-02 and Ordinance No. 2151-03, respectively passed by the Cleveland City Council on June 17, 2002 and December 15, 2003, and Board of Control Resolution No. 494-04, adopted September 1, 2004, the City of Cleveland entered into Contract No. 63396 with the R. DiLillo & Company for the Davinwood Park Playground Improvements for the Division of Research, Planning & Development, Department of Parks, Recreation & Properties, in the aggregate amount of \$250,604.55; and

Whereas, the R. DiLillo & Company wishes to use the services of additional subcontractor; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the employment of the following additional subcontractor by R. DiLillo & Company under Contract No. 63396 is approved:

<u>SUBCONTRACTOR</u>	<u>AMOUNT PERCENTAGE</u>
Cook Paving (MBE)	\$5,346.00 2.13%

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 709-04.

By Director Ronayne.

Whereas, under authority of Ordinance No. 474-02 and Ordinance No. 901-03, respectively passed by the Cleveland City Council on May 20, 2002 and June 10, 2003, and Board of Control Resolution No. 656-03, adopted October 29, 2003, the City of Cleveland entered into Contract No. 62194 with the R. J. Platten Contracting Company for the Lincoln Park Site Improvements for the Division of Research, Planning & Development, Department of Parks, Recreation & Properties, in the aggregate amount of \$673,173.27; and

Whereas, the R. J. Platten Contracting Company wishes to use the services of additional subcontractors; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by R. J. Platten Contracting Company under Contract No. 62194 is approved:

<u>SUBCONTRACTORS</u>	<u>AMOUNT PERCENTAGE</u>
G. T. Electric (MBE)	\$31,800.00 4.72%
Phillip Q. Hatcher & Associates (MBE)	\$21,374.50 3.17%

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 710-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program ("Program") in accordance with the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, under said Program, the City has acquired Permanent Parcel Nos. 008-13-031, 008-14-078 and 008-14-079 located at Holmden Avenue in Ward 13; and

Whereas, Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976 authorizes the Commissioner of Purchases and Supplies, when directed by the Director of Community Development and when certain specified conditions have been met, to sell Land Reutilization Program parcels to adjacent or abutting landowners; and

Whereas, Janice Ellen Bourell and Scott James Casey, abutting/adjacent landowners, have proposed to the City to purchase and develop said parcels; and

Whereas, the following conditions exist:

1. The member of Council from Ward 13 has consented to the proposed sale;

2. The parcels are either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchasers of said parcels are neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Janice Ellen Bourell and Scott James Casey for the sale and development of Permanent Parcel Nos. 008-13-031, 008-14-078 and 008-14-079 located at Holmden Avenue, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcels shall be \$1.00 each, which amount is hereby determined to be not less than the Fair Market value of said parcels for uses in accordance with said Program.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 711-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No(s). 106-02-001, 106-02-002, 106-02-085, 106-02-086 and 106-02-087, located at East 68th Street

under said Land Reutilization Program; and

Whereas, Ordinance No. 1280-04 passed November 22, 2004, authorized the sale of said parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Inner City Development and Personal Growth Foundation has proposed to the City to purchase and develop parcels; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 1280-04 passed November 22, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Inner City Development and Personal Growth Foundation for the sale and development of Permanent Parcel No(s). 106-02-001, 106-02-002, 106-02-085, 106-02-086 and 106-02-087, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcels shall be \$100.00 each, which amount is hereby determined to be not less than the fair market value of said parcels for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 712-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No(s). 118-09-112 and 118-09-003 (Southeasterly part of), located at Sagamore Avenue under said Land Reutilization Program; and

Whereas, Ordinance No. 775-03 passed March 29, 2004, authorized for sale of said parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Barry King and Sarita A. King have proposed to the City to purchase and develop said parcels; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 775-03 passed March 29, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Barry King and Sarita A. King for the sale and development of Permanent Parcel Nos. 118-09-112 and 118-09-003 (Southeasterly part of), as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcels shall be \$1.00 each, which amount is hereby determined to be not less than the fair market value of said parcels for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 713-04.

By Director Baker.

Be it resolved by the Board of Control of the City of Cleveland, that all bids for items 1, 3, and 4 received on September 22, 2004, for wireless data devices services necessary to operate the data portion of 7510 blackberries, for the various divisions of City Government, pursuant to the authority of Ordinance No. 1704-02, passed September 16, 2002 and amended by Ordinance No. 222-03, passed, by the Council of the City of Cleveland on December 15, 2003, are rejected.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 714-04.

By Director Routen.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 2326-04, passed by the Council of the City of Cleveland on December 13, 2004, Integrated Consulting Services Ltd. (ICS) is selected upon the nomination of the Director of Personnel and Human Resources from a list of qualified consultants determined after a full and complete canvass by the Director of Personnel and Human Resources as the firm to be employed by contract to provide the professional services necessary to administer a comprehensive workers compensation program, including but not limited to, actuarial and auditing services, disability and account management, preparing reports, scheduling and payment of medical exams, claims settlement, handicap reimbursement, investigations, and filing claims appeals and other duties.

Be it further resolved that the Director of Personnel and Human Resources is requested to enter into a written contract with Integrated Consulting Services Ltd. (ICS) based upon its November 15, 2004 proposal, for a one-year term starting January 1, 2005, which contract shall be prepared by the Director of Law, shall provide for furnishing of professional services as described in the proposal and shall contain additional terms and conditions the Director of Law considers necessary to protect and benefit the public interest. The fee for the services to be rendered under the contract shall not exceed \$250,000.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker,

Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: None.

Resolution No. 715-04.

By Director Routen.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 2323-04, passed by the Cleveland City Council on December 13, 2004, the Center for Families and Children is selected upon the nomination of the Director of Personnel and Human Resources from a list of qualified consultants determined after a full and complete canvass by the Director of Personnel and Human Resources as the firm to be employed by contract to provide the professional services necessary to administer assistance to City employees and their families, through the Ease @ Work program, in dealing with personal difficulties, marriage and family problems, financial concerns, legal issues, alcohol and drug problems, workplace issues, and emotional and stress-related difficulties.

Be it further resolved that the Director of Personnel and Human Resources is requested to enter into a written contract with the Center for Families and Children based upon its October 22, 2004 proposal, for a one year term starting January 1, 2005, which contract shall be prepared by the Director of Law, shall provide for furnishing of professional services as described in the proposal and shall contain additional terms and conditions the Director of Law considers necessary to protect and benefit the public interest. The fee for the services to be rendered under the contract shall not exceed \$150,000.00.

Yeas: Mayor Campbell, Acting Director Horvath, Directors Baker, Ciaccia, Mok, Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: None.

JEFFREY B. MARKS,
Secretary

CIVIL SERVICE NOTICES

General Information

Application blanks and information, regarding minimum entrance qualifications, scope of examination, and suggested reference materials may be obtained at the office of the Civil Service Commission, Room 119, City Hall, East 6th Street, and Lakeside Avenue.

Application blanks must be properly filled out on the official form prescribed by the Civil Service Commission and filed at the office of the commission not later than the final closing date stated in the examination announcement.

EXAMINATION RESULTS: Each applicant whether passing or failing will be notified of the results of the examination as soon as the com-

mission has graded the papers. Thereafter, eligible lists will be established which will consist of the names of those candidates who have been successful in all parts of the examination.

PHYSICAL EXAMINATION: All candidates for original entrance positions who are successful in other parts of the examinations must submit to a physical examination.

REYNALDO GALINDO,
President

**SCHEDULE OF THE BOARD
OF ZONING APPEALS**

MONDAY, JANUARY 3, 2005

9:30 A.M.

Calendar No. 04-307: 5300 Brookpark Road (Ward 16)

Sun Properties, owner c/o Dale Serne, agent, and Central Catholic Activity Center, tenant, appeal to change from a warehouse to a bingo hall, the use of an existing 118' x 86' one-story masonry building, situated on an acreage parcel located in split zoning for Semi-Industry and General Industry Districts on the north side of Brookpark Road at 5300 Brookpark Road; contrary to the provisions for required spacing as described in Specific Uses Regulated, the proposed change of use would prospectively be the second separate bingo/amusement use on the same parcel, and no amusement use may be established within 500' of another such use as stated in Section 347.12(a)(2) of the Codified Ordinances.

Calendar No. 04-308: 5320 Brookpark Road (Ward 16)

Sun Properties, owner c/o Dale Serne, agent, and Hilltopper Girls Athletic Association, tenant, appeal to change from a warehouse to a bingo hall, the use of an existing 200' x 60' one-story masonry building, situated on an acreage parcel located in split zoning for Semi-Industry and General Industry Districts on the north side of Brookpark Road at 5300 Brookpark Road; contrary to the provisions for required spacing as described in Specific Uses Regulated, the proposed change of use would prospectively be the third separate bingo/amusement use on the same parcel, and no amusement use may be established within 500' of another such use as stated in Section 347.12(a)(2) of the Codified Ordinances.

Calendar No. 04-309: 5360 Brookpark Road (Ward 16)

Sun Properties, owner c/o Dale Serne, agent, and Our Lady of the Cedars, tenant, appeal to change from a warehouse to a bingo hall, the use of an existing 100' x 100' one-story masonry building, situated on an acreage parcel located in split zoning for Semi-Industry and General Industry Districts on the north side of Brookpark Road at 5300 Brookpark Road; contrary to the provisions for required spacing as described in Specific Uses Regulated, the proposed change of use

would prospectively be the fourth separate bingo/amusement use on the same parcel, and no amusement use may be established within 500' of another such use as stated in Section 347.12(a)(2) of the Codified Ordinances.

Calendar No. 04-310: 5370 Brookpark Road (Ward 16)

Sun Properties, owner c/o Dale Serne, agent, and Irene and George Smirnov, tenants, appeal to change from a warehouse to a bingo hall, the use of an existing 100' x 100' one-story masonry building, situated on an acreage parcel located in split zoning for Semi-Industry and General Industry Districts on the north side of Brookpark Road at 5300 Brookpark Road; contrary to the provisions for required spacing as described in Specific Uses Regulated, the proposed change of use would prospectively be the fifth separate bingo/amusement use on the same parcel, and no amusement use may be established within 500' of another such use as stated in Section 347.12(a)(2) of the Codified Ordinances.

Calendar No. 04-311: 1440 West 57th Street (Ward 17)

Emad Wahba, owner, appeals erect a 20' x 33' two-story frame, room addition to an existing non-conforming three family dwelling, situated on a 40' x 114' lot in a Two-Family District on the west side of West 57th Street at 1440 West 57th Street; subject to the limitations of Section 337.03, a three family dwelling is not permitted in a Two-Family District but first allowed under Section 337.08 for a Multi-Family District; and contrary to Section 355.04, the minimum lot area required for each dwelling unit is 2,400 s/f and a total of 4,560 s/f is provided; and Sections 357.09 and 357.09(2)(a) require an 8' interior side yard where 2'3" and 4' is provided and that there shall be no building erected less than 10' from a main building on an adjoining lot; and 3 off-street parking spaces are required but none are provided, contrary to Section 349.04; and the non-conforming three family dwelling requires the Board of Zoning Appeals approval, as stated in Section 359.01 of the Codified Ordinances.

Calendar No. 04-312: 11703 Corlett Avenue (Ward 2)

Phillipi Missionary Baptist Church c/o Reverend G. E. Martin, appeals to erect a free-standing illuminated 6' x 4' sign and reader board (bulletin board) in the front yard of an existing nonconforming church building, situated on an 80' x 223' lot located in a Multi-Family District on the north side of Corlett Avenue at 11703 Corlett Avenue; contrary to the regulations for sign location, a 5' distance is proposed where the minimum distance is 25' from the front property line according to Section 350.13(b) of the Codified Ordinances.

Calendar No. 04-313: 2420 Fairdale Avenue (Ward 16)

Leonard Mach, owner, appeals to install a three level deck system that includes an 18' round x 4' deep above ground pool, to be erected in the rear yard of an existing one

family dwelling, situated on an approximate 41' x 116' corner lot in an A1 One-Family District on the northeast corner of Fairdale Avenue and West 25th Street at 2420 Fairdale Avenue; the deck system, as proposed, extends within 10' of the street line and is contrary to Section 357.13(b)(4) of the Codified Ordinances.

Secretary

REPORT OF THE BOARD OF ZONING APPEALS

MONDAY, DECEMBER 20, 2004

At the meeting of the Board of Zoning Appeals on Monday, December 20, 2004, the following appeals were heard by the Board:

The following appeals were **Approved**:

Calendar No. 04-303: 1811 Grantham Road
Gwendolyn Carr appealed to erect a two-story dwelling and accessory garage on the same parcel with an existing two family dwelling in a Multi-Family District; subject to conditions.

Calendar No. 04-304: 1240 West 9th Street
West Ninth Street Properties LLC appealed to erect an eleven-story condominium building in a D5 and B4 Limited Retail Business District.

Calendar No. 04-305: 3467 West 41st Street
Neil Mohney appealed to construct a 20' x 20' accessory garage in a General Retail Business District.

Calendar No. 04-306: 3458 East 140th Street
Katie Tufts appealed to erect a 22' x 22' accessory garage on an existing nonconforming foundation in a Multi-Family District.

Calendar No. 04-263: 7524 Spafford Avenue
Gwendolyn Gartin appealed to erect a 5' x 8'-6" landing and a 3' x 4' manufactured wheelchair lift onto an existing front porch of a one family dwelling in a Two-Family District.

The following appeal was **Denied**:

Calendar No. 04-302: 3816 East 153rd Street
Roosevelt Taylor appealed to convert a single family dwelling to a two family dwelling in an A1 One-Family District.

The following appeals were **Withdrawn**:

Calendar No. 04-301: 1187 Old River Road
Droe Express System, Inc., owner, and Frank Imhoff, tenant, appealed to change the use of a nightclub to an adult cabaret in a General Industry District.

The following appeal was **Postponed**:

Calendar No. 04-293: 2444 West 7th Street postponed to January 3, 2005.

Calendar No. 04-294: 2448 West 7th Street postponed to January 3, 2005.

Calendar No. 04-295: 2452 West 7th Street postponed to January 3, 2005.

Calendar No. 04-296: 2454 West 7th Street postponed to January 3, 2005.

Calendar No. 04-300: 3666 West 139th Street — Violation Notice postponed to January 10, 2005.

Calendar No. 04-259: 917 East 105th Street postponed to January 17, 2005.

In Executive Session on December 20, 2004, the following appeals heard by the Board on December 13, 2004 were adopted and approved.

The following appeals were **Approved**:

Calendar No. 04-297: 9603 Columbia Avenue
Traci Wells appealed to enclose a 6' x 24' open front porch of a one family dwelling in an A1 One-Family District.

Calendar No. 04-299: 4801 Chester Avenue
City of Cleveland Department of Community Development appealed to use as a construction storage yard and batch plant for a period of one year permanent Parcel Nos. 104-31-016, 017, 018, 019, 020 and 026 in a Semi-Industry District.

Calendar No. 04-262: 383 East 156th Street
John Dimmian appealed to construct a 2 1/2-story retail and residential building on a corner lot in a Local Retail Business District.

The following appeals were **Denied**:

None.

Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

Re: Report of the Meeting of December 15, 2004

As required by the provisions of Section 3103.20(2) of the Codified Ordinances of the City of Cleveland, Ohio 1976, the following brief of action of the subject meeting is given for publication in The City Record:

* * *

Docket A-127-02.

RE: Appeal of S.R. Products, Owner of the Property located on the premises known as 13309-11 Union Avenue from a DENIAL OF PERMIT APPLICATIONS — FIRE CODE of the Chief of the Division of Fire, dated July 9, 2002, requiring

compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

Docket A-127-02 has been POSTPONED; to be rescheduled for a later date.

* * *

Docket A-175-02.

RE: Appeal of S.R. Products, Owner of the Property located on the premises known as 13309-11 Union Avenue from a DENIAL OF PERMIT APPLICATIONS — FIRE CODE of the Chief of the Division of Fire, dated July 9, 2002, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

Docket A-175-02 has been POSTPONED; to be rescheduled for a later date.

* * *

Docket A-121-04.

RE: Appeal of Arqile Jani, Owner of the Property located on the premises known as 2972 Bridge Avenue from a ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated October 18, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variances required to occupy the first and second floors with a maximum of eighteen (18) people on the second floor, with the understanding that the Appellant will comply with the issues cited in the letter from Ken Moser, Plan Examiner, dated December 15th, 2004; and that the occupancy will be posted on the second floor. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

Docket A-131-04.

RE: Appeal of Saul Mantos Garcia, Owner of the Property located on the premises known as 4404 West 47th Street from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated October 29, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variances to the existing building requirement for the front entrance and to require that the Appellant provide an ADA compliant water closet and single lever faucet in the existing toilet room. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Gallagher.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

Docket A-132-04.

RE: Appeal of MRN Ltd., Owner of the Property located on the premises known as 623 Euclid Avenue from an ADJUDICATION ORDER of the Director of the Department of

Building and Housing, dated November 22, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to permit the structure to remain as it is with the provision that a dry or anti-freeze protected fire suppression sprinkler system be installed under the roof deck in the penthouse and that the system below the floor be maintained as it is and that it is understood that the existing combustible floor will be protected with either intumescent paint or a fire rated drywall encapsulation with cementitious topping. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

Docket A-133-04.

RE: Appeal of MRN Ltd., Owner of the Property located on the premises known as 608 Euclid Avenue (aka 2034 East 4th Street) from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated November 18, 2004 and November 19, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to permit the Foundation Room to be constructed as indicated on the drawings, and to grant the variances to the percentage of decoration and millwork, noting that the sprinkler system is to be ordinary hazard or better, and that the Fire Prevention Bureau has reviewed and concurs with the coverage provided; to permit the locked access door to exist in the stairwell, noting that the door and the enclosure abutting the stairwell is rated consistent with the stairwell required ratings of one hour; to permit the basement to remain as a combustible space with the provision that fire stops be installed around all floor penetrations, that a ceiling be installed above the staircase with a one hour rating, that sprinklers be installed in the stairwell as well as in the basement area and that a smoke detector system be installed to annunciate and alarm throughout the main system. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

Docket A-137-04.

RE: Appeal of City of Cleveland — Cleveland Browns Stadium, Owner of the Property located on the premises known as 1085 West 3rd Street from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated December 08, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to permit the Appellants to shut off the electric water coolers that cannot be main-

tained in freezing weather, with the provision that they will put up a sign and provide an expedited separate line or other solution to allow drinking water to be dispensed efficiently at the concession stands, and that the cups should be at least 10 ounces and that this is a permanent variance granted for the future. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

Docket A-138-04.

RE: Appeal of Playhouse Square Foundation, Owner of the Property located on the premises known as 1375 Euclid Avenue from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated December 09, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to permit the fire command center to be installed on the mezzanine with the provision that the glass floor be protected in a manner approved by the Fire Prevention Bureau to provide total wetting of the glass. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

EXTENSION OF TIME:

Docket A-21-04 — RE: The City of Cleveland — 4001 N. Marginal Road;

A motion is in order at this time to grant the Appellant until March 15th, 2005 in which to abate the violations; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Gallagher.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

* * *

APPROVAL OF RESOLUTIONS:

Separate motions were entered by Mr. Gallagher and seconded by Mr. Saunders for Approval and Adoption of the Resolutions as presented by the Secretary for the following Dockets respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-120-04—Case Western Reserve University.
- A-122-04—Board of County Commissioners.
- A-124-04—Case Western Reserve University.
- A-125-04—Case Western Reserve University.
- A-126-04—Case Western Reserve University.
- A-127-04—Case Western Reserve University.
- A-128-04—Case Western Reserve University.

A-129-04—Case Western Reserve University.

A-130-04—Art Galvanizing Works, Inc.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Not Voting: Mr. Bradley.

* * *

APPROVAL OF MINUTES:

Separate motions were entered by Mr. Gallagher and seconded by Mr. Denk for Approval and Adoption of the Minutes as presented by the Secretary, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

December 1, 2004

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Not Voting: Mr. Bradley.

Secretary

PUBLIC NOTICE

NONE

NOTICE OF PUBLIC HEARING

NONE

CITY OF CLEVELAND BIDS

For All Departments

Scaled bids will be received at the office of the Commissioner of Purchases and Supplies, Room 128, City Hall, in accordance with the appended schedule, and will be opened and read in Room 128, City Hall, immediately thereafter.

Each bid must be made in accordance with the specifications and must be submitted on the blanks supplied for the purpose, all of which may be obtained at the office of the said Commissioner of Purchases and Supplies, but no bid will be considered unless delivered to the office of the said commissioner previous to 12:00 noon (Eastern Standard Time) on the date specified in the schedule.

187.10 Negotiated contracts; Notice required in Advertisement for Bids.

Where invitations for bids are advertised, the following notice shall be included in the advertisement: "Pursuant to the MBE/FBE Code, each prime bidder, each minority business enterprise ("MBE") and each female business enterprise ("FBE") must be certified before doing business with the City. Therefore, any prime contractor wishing to receive credit for using an MBE or FBE should ensure that applications for certification as to MBE or FBE status compliance with the Code, affirmative action in employment and, if applicable, joint venture status, are submitted to the Office of Equal Opportunity ("OEO") prior to the date of bid opening or submission of proposals or as specified by the Director. Fail-

ure to comply with the business enterprise code or with representations made on these forms may result in cancellation of the contract or other civil or criminal penalties."

WEDNESDAY, JANUARY 12, 2005

Remediating and Testing Soil, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 1126-01, passed by the Council of the City of Cleveland, June 19, 2001.

THERE WILL BE A **NON-MANDATORY** BID DECEMBER 29, 2004 AT 10:00 A.M., CLEVELAND HOPKINS INTERNATIONAL AIRPORT'S CENTRAL ENGINEERING BUILDING, MAIN CONFERENCE ROOM, 19501 FIVE POINTS ROAD, CLEVELAND, OHIO 44135.

December 15, 2004 and December 22, 2004

THURSDAY, JANUARY 6, 2005

Department of Public Service Sprinkler Work (former Aviation High School), for the Division of Architecture, Department of Public Service, as authorized by Ordinance No. 2066-04, passed by the Council of the City of Cleveland, October 25, 2004.

THERE WILL BE A **REFUNDABLE** FEE OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING THURSDAY, DECEMBER 30, 2004 AT 2:00 P.M., FORMER AVIATION HIGH SCHOOL, 4001 NORTH MARGINAL ROAD, CLEVELAND, OHIO.

December 22, 2004 and December 29, 2004

WEDNESDAY, JANUARY 12, 2005

Lumber, for the Various Divisions City Government, Department of Finance, as authorized by Ordinance No. 2008-04, passed by the Council of the City of Cleveland, November 8, 2004.

THERE WILL BE A **MANDATORY** PRE-BID MEETING, TUESDAY, JANUARY 4, 2005 AT 10:00 A.M., DIVISION OF STREETS, CONFERENCE ROOM 25, CITY HALL, 601 LAKESIDE AVE, CLEVELAND, OHIO 44114.

THE CITY WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

Tire Repair Road Service, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 774-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING WEDNESDAY, JANUARY 5, 2005 AT 3:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH ST, BUILDING #1, CLEVELAND, OHIO 44105.

International Truck Parts and Labor, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 845-04, passed by the Council of the City of Cleveland, August 11, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING WEDNESDAY JANUARY 5, 2005 AT 3:30 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH ST, BUILDING #1, CLEVELAND, OHIO 44105.

Repair of Various Air Tools and Testing, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 1740-01, passed by the Council of the City of Cleveland, December 3, 2001.

THERE WILL BE A **MANDATORY** PRE-BID MEETING WEDNESDAY, JANUARY 5, 2005, AT 10:00 A.M., DIVISION OF WATER POLLUTION CONTROL, 12302 KIRBY AVENUE, CLEVELAND, OHIO 44108.

THE CITY WILL NOT CONSIDER THE BID OF ANY ONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

December 22, 2004 and December 29, 2004

THURSDAY, JANUARY 13, 2005

Carver Park Estates — Phase 2, for the Division of Engineering and Construction, Department of Public Service, as authorized by Ordinance No. 241-03, passed by the Council of the City of Cleveland, May 12, 2003.

THERE WILL BE A **REFUNDABLE** FEE OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING WEDNESDAY, JANUARY 5, 2005 AT 10:00 A.M., CITY HALL, ROOM 518, 601 LAKESIDE AVE., CLEVELAND, OHIO 44114.

Towing Service, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 777-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING, THURSDAY, JANUARY 6, 2005 AT 3:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.

Automotive Truck Parts, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 470-04, passed by the Council of the City of Cleveland, April 26, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING,

THURSDAY, JANUARY 6, 2005 AT 3:30 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.

December 22, 2004 and December 29, 2004

WEDNESDAY, JANUARY 19, 2005

Board Up — Areas 1, for the Department of Building & Housing, as authorized by Ordinance No. 703-04, passed by the Council of the City of Cleveland, May 24, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING, THURSDAY, JANUARY 6, 2005 AT 10:00 A.M., CITY HALL, CONFERENCE ROOM 509, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

December 22, 2004 and December 29, 2004

THURSDAY, JANUARY 20, 2005

Board Up — Areas 2, for the Department of Building & Housing, as authorized by Ordinance No. 703-04, passed by the Council of the City of Cleveland, May 24, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING, THURSDAY, JANUARY 6, 2005 AT 10:00 A.M., CITY HALL, CONFERENCE ROOM 509, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

December 22, 2004 and December 29, 2004

FRIDAY, JANUARY 21, 2005

Board Up — Areas 3, for the Department of Building & Housing, as authorized by Ordinance No. 703-04, passed by the Council of the City of Cleveland, May 24, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING, THURSDAY, JANUARY 6, 2005 AT 10:00 A.M., CITY HALL, CONFERENCE ROOM 509, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

December 22, 2004 and December 29, 2004

WEDNESDAY, JANUARY 26, 2005

Board Up — Areas 4 and Emergency Service, for the Department of Building & Housing, as authorized by Ordinance No. 703-04, passed by the Council of the City of Cleveland, May 24, 2004.

THERE WILL BE A **NON-MANDATORY** PRE-BID MEETING, THURSDAY, JANUARY 6, 2005 AT 10:00 A.M., CITY HALL, CONFERENCE ROOM 509, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

December 22, 2004 and December 29, 2004

**ADOPTED RESOLUTIONS
AND ORDINANCES**

Res. No. 1856-04.
By Council Members Jackson, Sweeney and Cimperman (by request).

An emergency resolution declaring the intention to vacate a portion of East 43rd Place.

Whereas, this Council is satisfied that there is good cause to vacate a portion of East 43rd Place, as described; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council declares its intention to vacate a portion of the following described real property:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being all that portion of East 43rd Place (40 feet wide) extending Southerly from the Southerly line of Pershing Avenue S.E. (60 feet wide) to the Northerly line of that portion of East 43rd Place vacated by Ordinance #1795-42 passed January 18, 1943.

Description approved by Greg Esber, Acting Section Chief, Plats, Surveys and House Numbering Section.

Section 2. That this resolution is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.
Effective December 17, 2004.

Res. No. 1965-04.
By Council Members Jackson, Sweeney and Cimperman (by departmental request).

An emergency resolution declaring the intention to vacate a portion of the first unnamed alley west of East 79th Street.

Whereas, this Council is satisfied that there is good cause to vacate a portion of the first unnamed alley west of East 79th Street, as described; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council declares its intention to vacate a portion of the following described real property:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being all that portion of the first unnamed alley (12 feet wide), West of East 79th Street (50 feet wide) extending northerly from the North line of Central Avenue (60 feet wide) to the South line of Sublot 26 in Fenton & Cody's Subdivision as shown in Volume 15 Page 35 of the Cuyahoga County Map Records.

Legal description approved by Greg J. Esber
Plats, Surveys and House Numbering Section

Section 2. That this resolution is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.
Effective December 17, 2004.

Res. No. 2375-04.
By Council Members Cimperman, Brady, Sweeney, Britt, O'Malley, White, Pierce Scott, Conwell, Zone, Coats, Polensek, Westbrook, Gordon, Lewis, and Jones.

An emergency resolution encouraging any development in the Industrial Valley, specifically at Steel Yard Commons, to employ Cleveland residents consistent with the Fannie M. Lewis Law, to pay prevailing wage on construction projects, and to develop projects that result in jobs with fair wages and health benefits; encouraging the Towpath Trail planning and the goal to connect the Harvard Avenue portions to the Canal Basin Park in an effort to extend the green space and recreation options available to the Greater Cleveland region; and encouraging any retail venue, especially stores selling grocery items, in the Steel Yard Commons development to be planned in a manner that does not adversely affect the existing retailers in the neighborhoods surrounding the Industrial Valley.

Whereas, it is estimated that 1.3 billion retail dollars annually are spent by Cleveland residents outside of the City of Cleveland; and

Whereas, this Council has encouraged and continues to encourage retail growth, development, and expansion in the City of Cleveland in order to provide Cleveland residents with opportunities to spend retail dollars within the City limits; and

Whereas, the City of Cleveland has partnered with private developers to increase the City's retail shopping opportunities; and

Whereas, this Council encourages and is supportive of the City's role as an investor with respect to growth and development in the City of Cleveland; and

Whereas, it is imperative that growth and development in the City of Cleveland include Cleveland residents in the planning and execution of projects; and

Whereas, it is imperative that construction projects in the City of Cleveland be constructed with participation by residents of the City of Cleveland; and

Whereas, it is imperative that jobs arising from growth and development result in jobs with health benefits for Clevelanders; and

Whereas, the efforts to develop Steel Yard Commons include the connection of the Towpath Trail and the use of industrial land with an uncertain future; and

Whereas, this Council acknowledges the challenges in converting former industrial land to retail use and the challenges in transportation planning and infrastructure planning; and

Whereas, there has been much discussion of the types of retail that may be located in the Industrial Valley; and

Whereas, the neighborhoods surrounding the Industrial Valley have strong and growing retail districts, districts that include the West Side Market, hardware stores, floral shops, coffee shops, restaurants, auto repair supply stores, art galleries, boutiques, and grocery stores, etc.; and

Whereas, the grocery stores in the surrounding neighborhoods have been leaders in developments that have taken decades to realize; and

Whereas, grocery store developments have resulted in good paying jobs with benefits to Cleveland communities; and

Whereas, grocery store developments have assisted the City of Cleveland's efforts to grow housing and other economic developments and have brought healthy and nutritious foods to the neighborhoods of Central, Payne Sterling, Slavic Village, Old Brooklyn, St. Clair-Superior, Tremont, and all the neighborhoods of Cleveland; and

Whereas, the best developments in the City of Cleveland occur in collaboration with the City and its residents and with community support; and

Whereas, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health, or safety, now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council encourages any development in the Industrial Valley, specifically at Steel Yard Commons, to employ Cleveland residents consistent with the Fannie M. Lewis Law, to pay prevailing wage on construction projects, and to develop projects that result in jobs with fair wages and health benefits.

Section 2. That this Council encourages the Towpath Trail planning and the goal to connect the Harvard Avenue portions to the Canal Basin Park in an effort to extend the green space and recreation options available to the Greater Cleveland region.

Section 3. That this Council encourages any retail venue, especially stores selling grocery items, in the Steel Yard Commons development to be planned in a manner that does not adversely affect the existing retailers in the neighborhoods surrounding the Industrial Valley.

Section 4. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.
Effective December 17, 2004.

Res. No. 2376-04.
By Council Members Cimperman and Sweeney.

An emergency resolution requesting that the Department of Public Service install a traffic light at the intersection of East 49th Street and St. Clair before the end of calendar year 2004.

Whereas, the residents of St. Clair Superior Payne Sterling truly appreciate the strong relationship they have with the Department of Public Service; and

Whereas, a traffic light at East 49th Street and St. Clair was removed; and

Whereas, the residents have communicated with the Department of Public Service regarding their desire to see a traffic light installed at East 49th Street and St. Clair before the end of calendar year 2004; and

Whereas, this intersection is used daily by over 800 students from the Ohio Technical College; and

Whereas, hundreds of pedestrians walk in this area on a daily basis; and

Whereas, the residents, together with the local block club, have cited these factors in their requests for replacement and installation of a traffic light at East 49th Street and St. Clair; and

Whereas, these requests for replacement and installation of a fully function traffic light have been communicated to the Department of Public Service; and

Whereas, this resolution serves as official notice of the Ward 13 Council Member's request and the request of the community for the installation of a traffic light at East 49th Street and St. Clair before the end of the calendar year; and

Whereas, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health, or safety, now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council hereby requests that the Department of Public Service install a traffic light at the intersection of East 49th Street and St. Clair before the end of calendar year 2004.

Section 2. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.

Effective December 17, 2004.

Res. No. 2377-04.
By Council Members Coats, Pierce Scott, Westbrook, Gordon, Lewis, Cimperman, Conwell, Reed, White, O'Malley, Britt, Brady, Jones, Polensek, Jackson, Cintron, Dolan, Johnson, Rybka, Sweeney and Zone.

An emergency resolution encouraging Governor Bob Taft to sign House Bill 473 authorizing county prosecutors and local law directors to seek evictions of registered sexual offenders who live within 1,000 feet of a school in violation of state law.

Whereas, Ohio law prohibits sex offenders from living within 1,000 feet of a school; and

Whereas, Ohio law currently does not give law enforcement the power to remove sex offenders in violation of this prohibition; and

Whereas, House Bill 473 gives county prosecutors and local law directors authority to seek evictions of offenders who live within 1,000 feet of a school; and

Whereas, the Ohio House of Representatives and the Ohio Senate passed House Bill 473 and it is now awaiting the Governor's signature; and

Whereas, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health or safety, now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council encourages Governor Bob Taft to sign House Bill 473 authorizing county prosecutors and local law directors to seek evictions of registered sexual offenders who live within 1,000 feet of a school in violation of state law.

Section 2. That the Clerk of Council is hereby directed to transmit a certified copy of this resolution to Ohio Governor Bob Taft.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.

Effective December 17, 2004.

Res. No. 2379-04.
By Council Member Britt.
An emergency resolution withdrawing objection to the transfer of ownership of a C2 and C2X Liquor Permit at 1930 East 79th Street and repealing Resolution No. 2073-04, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a C2 and C2X Liquor Permit to 1930 East 70th Street by Resolution No. 2073-04 adopted by the Council on October 25, 2004; and

Whereas, this Council wishes to withdraw its objection to the above transfer and consents to said transfer; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objection to the transfer of ownership of a C2 and C2X Liquor Permit to Chesters All Service Mart, Inc., DBA Quik Pik Market, 1930 East 79th Street, Cleveland, Ohio 44104, Permanent Number 1421706 be and the same is hereby withdrawn and Resolution No. 2073-04, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate transfer thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and provided it receives the

affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.

Effective December 17, 2004.

Res. No. 2380-04.
By Council Member Johnson.
An emergency resolution withdrawing objection to a New C1 Liquor Permit at 10017 Sophia Avenue and repealing Resolution No. 2075-04, objecting to said permit.

Whereas, this Council objected to a New C1 Liquor Permit to 10017 Sophia Avenue by Resolution No. 2075-04 adopted by the Council on October 25, 2004; and

Whereas, this Council wishes to withdraw its objection to the above permit and consents to said permit; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objection to a New C1 Liquor Permit to Hayfa, Inc., DBA Sophia Food Market, 10017 Sophia Avenue, Cleveland, Ohio 44104, Permanent Number 3693704, be and the same is hereby withdrawn and Resolution No. 2075-04, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate permit thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.

Effective December 17, 2004.

Res. No. 2381-04.
By Council Member Reed.
An emergency resolution withdrawing objection to the transfer of liquor license of a C2 and C2X Liquor Permit at 14101-1/2 Kinsman Road and repealing Resolution No. 2133-04, objecting to said transfer.

Whereas, this Council objected to a C2 and C2X Liquor Permit to 14101-1/2 Kinsman Road by Resolution No. 2133-04 adopted by the Council on November 8, 2004; and

Whereas, this Council wishes to withdraw its objection to the above transfer of liquor license and consents to said transfer; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objection to a C2 and C2X Liquor Permit to Zetawi, Inc., DBA Mt. Pleasant Beverage, 14101-1/2 Kinsman Road, Cleveland, Ohio 44120, Permanent Number

99020560001 be and the same is hereby withdrawn and Resolution No. 2133-04, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate transfer thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.
Effective December 17, 2004.

Res. No. 2382-04.
By Council Member Sweeney.
An emergency resolution withdrawing objection to the transfer of ownership of a C1 and C2 Liquor Permit at 14016 Triskett Road and repealing Resolution No. 2026-04, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a C1 and C2 Liquor Permit to 14016 Triskett Road by Resolution No. 2026-04 adopted by the Council on October 18, 2004; and

Whereas, this Council wishes to withdraw its objection to the above transfer and consents to said transfer; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objection to the transfer of ownership of a C1 and C2 Liquor Permit to A & O Beverage, Inc., DBA MoZie In Beverage, 14016 Triskett Road, Cleveland, Ohio 44111, Permanent Number 0006233 be and the same is hereby withdrawn and Resolution No. 2026-04, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate transfer thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.
Effective December 17, 2004.

Res. No. 2383-04.
By Council Member White.
An emergency resolution withdrawing objection to a New C1 Liquor Permit at 7910 Harvard Avenue and repealing Resolution No. 1353-04, objecting to said permit.

Whereas, this Council objected to a New C1 Liquor Permit to 7910 Harvard Avenue by Resolution No. 1353-04 adopted by the Council on July 14, 2004; and

Whereas, this Council wishes to withdraw its objection to the above permit and consents to said permit; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objection to a New C1 Liquor Permit to Reham Food Mart, DBA Clark Oil, 7910 Harvard Avenue, Cleveland, Ohio 44105, Permanent Number 7274254, be and the same is hereby withdrawn and Resolution No. 1353-04, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate permit thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted December 13, 2004.
Effective December 17, 2004.

Ord. No. 849-04.
By Council Members Polensek, Gordon, Cimperman and Jackson (by departmental request).

An emergency ordinance declaring the property located at 17300 Lakeshore Boulevard and 1120 East 169th Street blighted premises under Sections 324.01 through 324.16 of the Codified Ordinances of Cleveland, Ohio, 1976; and authorizing the Director of Community Development to acquire the blighted premises and sell the premises to Northeast Shores Development Corporation.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That, under the requirements of Sections 324.01 through 324.16, inclusive, of the Codified Ordinances of Cleveland, Ohio, 1976, including obtaining the consent of the Councilmembers in whose wards the premises are located, the Director of Community Development has found and determined that Permanent Parcel Nos. 113-25-008, 113-25-009, and 113-25-010, located at 17300 Lakeshore Boulevard, owned by Joseph W. Adornetti and Rosemary Adornetti, and Permanent Parcel No. 113-22-034, located at 1120 East 169th Street, owned by William J. Nagy, are blighted premises, as defined by Section 324.03 of the Codified Ordinances, because the blighted premises have been found to be in violation of the Codified Ordinances. Furthermore, it is the opinion of the Director that it is necessary for the City of Cleveland to acquire the blighted premises because the owners have not responded to a lawful order by the City to take action to eliminate its recurrence within thirty (30) days after due notice thereof.

Section 2. That a public hearing was held in accordance and compliance with the requirements of Section 324.08 and 324.09 of the Codified Ordinances.

Section 3. That, based on the factors set forth above and compliance with the public notice requirements above, the Council, as required by Sections 324.10 and 324.11 of the Codified Ordinances, finds and determines that the areas described above are blighted premises as defined in Section 324.03 of the Codified Ordinances, and that acquisition of the premises are necessary in order to eliminate the blight and prevent its recurrence.

Section 4. That based on the findings and declarations set forth herein, the Director of Community Development is authorized to negotiate the acquisition of the blighted premises from the owners.

Section 5. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances, of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized to purchase the following described blighted premises from Joseph W. Adornetti and Rosemary Adornetti:

P. P. No. 113-25-008, 113-25-009 & 113-25-010
17300 Lakeshore Boulevard

Situated in City of Cleveland County of Cuyahoga and State of Ohio, and known as being all of Sublots Nos. 30 and 31 and a part of Sublots Nos. 29 and 32 in Milton E. Bertram's Boulevard Allotment of part of Original Euclid Township Tract No. 15, as shown by the recorded plat in Volume 80 of Maps, Page 1 of Cuyahoga County Records, and together forming a parcel of land bounded and described as follows:

Beginning on the Southerly line of Lake Shore Boulevard at the Northwesterly corner of Sub-lot No. 32; thence Easterly along the Southerly line of Lake Shore Boulevard, 220.51 feet; thence Southerly and parallel with the Westerly line of Sub-lot No. 29, 96 feet; thence Westerly and parallel with the Southerly line of Lake Shore Boulevard, 1.50 feet; thence Southerly and parallel with the Westerly line of Sub-lot No. 29, 18 feet; thence Easterly and parallel with the Southerly line of Lake Shore Boulevard, 1.50 feet; thence Southerly and parallel with the Westerly line of Sub-lot No. 29, 46 feet; thence Westerly and parallel with the Southerly line of Sub-lot No. 29, 25.51 feet to the Easterly line of Sub-lot No. 30; thence Southerly along the Easterly line of Sub-lot No. 30, 40 feet to the Southeasterly corner thereof; thence Westerly along the Southerly line of Sublots Nos. 30 and 31, 130 feet to the Southeasterly corner of Sub-lot No. 32; thence Northerly along the Easterly line of Sub-lot No. 32, 40 feet; thence Westerly and parallel with the Southerly line of Sub-lot 32, 65 feet to the Westerly line of Sub-lot No. 32; thence Northerly along the Westerly line of Sub-lot No. 32, 160 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Section 6. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances, of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized to purchase the following described blighted premises from William J. Nagy:

P. P. No. 113-22-034
1120 East 169th Street

Situated in the City of Cleveland in the County of Cuyahoga and State of Ohio, and known as being subplot No. 32 in Moreland Allotment of part of Original Euclid Township Tract No. 15, as shown by the recorded plat in Volume 64 of Maps, Page 29 of Cuyahoga County Records, and being 40.07 feet front on the Westerly side of East 169th Street, 150 feet deep on the Northerly line, 150 feet deep on the Southerly line, which is also the Northerly line of Ozark Avenue, N.E. and 39.11 feet in the rear, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 7. That the Director of Community Development is authorized to execute on behalf of the City of Cleveland all necessary documents to acquire and to convey the properties and to employ and pay all fees for title companies, surveys, escrows, appraisers, environmental audits, relocation, and all other costs necessary for the acquisition of the properties.

Section 8. That the Director of Community Development is authorized to enter into and execute a project agreement on behalf of the City of Cleveland with Northeast Shores Development Corporation (the "Developer") for the redevelopment or rehabilitation, as defined in Chapter 324 of the Codified Ordinances, of the blighted premises.

Section 9. That the consideration to be paid for these properties shall be fair market value, payable from the fund or funds which are appropriated for this purpose.

Section 10. That the Commissioner of Purchases and Supplies is authorized to convey the blighted properties described in this ordinance to the Developer, for fair market value, taking into account all restrictions, reversionary interests and similar encumbrances placed by the City of Cleveland in the deeds of conveyance.

Section 11. That the conveyances shall be made by official deeds prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deeds shall contain necessary provisions, including restrictive reversionary interests as may be specified by the Board of Control or Director of Law, which shall protect the parties as their respective interests require and shall specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs.

Section 12. That the Mayor, Director of Law and the Director of Community Development are authorized to execute such certifications and documents, and to take other actions as may be necessary or appropriate in connection with the carrying out of the terms of the project agreement, and the activities contemplated by Chapter 324 of the Codified Ordinances.

Section 13. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it

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

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1083-04.
By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to employ one or more professional consultants to provide pavement inspection services, including base map and software set-up services.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to provide pavement inspection services, including base map and software set-up services, for the various divisions of the Department of Port Control.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Port Control from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Port Control for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Port Control, and certified by the Director of Finance.

Section 2. That the cost of contract or contracts authorized shall be paid from Fund No. 60 SF 001, Request No. 146059.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1096-04.
By Council Members Cimperman, White and Jackson (by departmental request).

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 699A.01 to 699A.06 relating to community entertainment districts.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 699A.01 to 699A.06 to read as follows:

Chapter 699A
COMMUNITY ENTERTAINMENT DISTRICTS

Section 699A.01 District Definition

As used in this chapter and in Section 4301.80 of the Revised Code, "Community Entertainment District" means an area within the Central Business District and means a bounded area of at least twenty (20) contiguous acres that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (a) Hotels;
- (b) Restaurants;
- (c) Retail sales establishments;
- (d) Enclosed shopping centers;
- (e) Museums;
- (f) Performing arts theaters;
- (g) Motion picture theaters;
- (h) Night clubs;
- (i) Convention facilities;
- (j) Sports facilities;
- (k) Entertainment facilities or complexes; or

(l) Any combination of the establishments described in division (a)-(k) of this section that provide similar services to the community.

Section 699A.02 Application Submission

Any owner of property seeking to have that property, or that property and other surrounding property, designated as a Community Entertainment District shall file an application seeking this designation with the Mayor of the City of Cleveland and the Director of the City Planning Commission. An application to designate an area as a Community Entertainment District shall contain all of the following:

(a) The applicant's name and address;

(b) A map or survey of the proposed Community Entertainment District in sufficient detail to identify the boundaries of the district and the property owned by the applicant;

(c) A general statement of the nature and types of establishments described in Section 699A.01 of this chapter that are or will be located within the proposed Community Entertainment District and any other establishments located in the proposed Community Entertainment District that are not described in Section 699A.01 of this chapter;

(d) If some or all of the establishments within the proposed Community Entertainment District have not yet been developed, the proposed time frame for completing the development of these establishments;

(e) Evidence that the uses of land within the proposed Community Entertainment District are in accord with the Zoning Code and Map of the City of Cleveland;

(f) A certificate from a surveyor or engineer licensed under Chapter 4733 of the Revised Code indicating that the area encompassed by the

proposed Community Entertainment District contains no less than twenty contiguous acres; and

(g) A handling and processing fee of \$5,000 to accompany the application, payable to the City of Cleveland, to cover administrative costs and legal advertisements.

Section 699A.03 Application Processing

(a) *Action by Mayor.* Within thirty (30) days after receiving the application, the Mayor shall submit the application with the Mayor's recommendation to the City Council. The application is a public record for purposes of Section 149.43 of the Revised Code upon its receipt by the Mayor.

(b) *Public Notice by City Council.* Within thirty (30) days after it receives the application and the Mayor's recommendations relating to the application, the City Council, by notice published once a week for two consecutive weeks in at least one newspaper of general circulation in the City of Cleveland, shall notify the public that the application is on file in the office of the Clerk of City Council and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing to be conducted by Cleveland City Council.

(c) *Action by City Council.* Within seventy-five (75) days after the date the application is filed with the Mayor, the City Council by ordinance or resolution shall approve or disapprove the application based on whether the proposed Community Entertainment District does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. In making its determination, the City Council shall also consider the supplemental standards established in Section 699A.04 of this chapter. Any approval of an application shall be by an affirmative majority vote of the City Council. In the event that City Council fails to act within seventy-five (75) days, the application shall be deemed to be disapproved and the application fee shall be returned to the applicant, minus advertising fees.

(d) *Revision and Re-Submission.* If the City Council disapproves the application, the applicant may make changes in the application to secure its approval by City Council. Any area contained in an application that is approved by the City Council constitutes a Community Entertainment District, and a local option election may be conducted in the district, as a type of community facility, under Section 4301.356 of the Revised Code.

Section 699A.04 Supplemental Standards for Designation

City Council shall not approve an application for a Community Entertainment District if any perimeter boundary of the district is within five hundred (500) feet of an elementary or secondary school, a City park or City recreation facility, or a facility whose principal use is the holding of religious services, if the Council determines that the Community Entertainment District will adversely affect the operation of such facilities. In reviewing an ap-

plication for a Community Entertainment District, City Council shall also consider the appropriateness of the proposed district with respect to the City of Cleveland's General Plan and other comprehensive plans adopted by the City Planning Commission, as well as with respect to the proximity and extent of residential uses, the availability of off-street parking, and crime statistics for the immediate area.

Section 699A.05 Prohibited Uses

Notwithstanding any other provisions of the Codified Ordinances of the City of Cleveland, "adult entertainment uses," as defined in Section 347.07 of the Codified Ordinances, shall be prohibited in a Community Entertainment District.

Section 699A.06 Removal of Designation

All or part of an area designated as a Community Entertainment District may lose this designation as provided in Section 4301.80 of the Revised Code and by this section. The City Council, after giving notice of its proposed action by publication once a week for two consecutive weeks in at least one newspaper of general circulation in the City of Cleveland, may determine by ordinance or resolution, that all or part of the area fails to meet the standards described in Section 4301.80 of the Revised Code and in this ordinance for designation of a Community Entertainment District. If the City Council so determines, the area designated in the ordinance or resolution shall no longer constitute a Community Entertainment District.

Section 2. That the Director of the City Planning Department shall provide a report to this Council six months after passage of this ordinance concerning the impact of establishing the districts.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1180-04.
By Council Members Gordon, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the acquisition of certain easement interests from the State of Ohio, Department of Transportation, for creating a conservation easement, for the Department of Community Development.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized to acquire certain easement rights from the State of Ohio, Department of Trans-

portation in and to the premises hereinafter described for the purpose of creating a conservation easement, more fully described as follows:

Situated in the City of Cleveland, Cuyahoga County, State of Ohio, and known as being part of Original Brooklyn Township Lot No. 81, and further bounded and described as follows:

Commencing at the intersection of the centerline of Hinckley Industrial Parkway with the southerly line of said Original Lot No. 81, said place of commencement is North 02°-54'-33" West, 1,024.31 feet from a iron bar found in a monument box in the centerline of Hinckley Industrial Parkway;

Thence South 89°-15'-00" West, 15.27 feet along said southerly line of Original Lot 81 to the Principal Point of Beginning;

1. Thence continuing along the southerly line of said Original Lot No. 81, South 89°-15'-00" West, 24.76 feet to a to a 5/8" capped iron pin set at the southeast corner of land conveyed to G-K Limited by Instrument Number 200203080067 as recorded in Cuyahoga County Records;

2. Thence North 02°-50'-22" West, 14.47 feet, along the Easterly line of lands conveyed to said G-K Limited, to a 5/8" capped iron pin set at a point of curvature;

3. Thence along the arc of a curve deflecting to the left a distance of 138.61 feet, said curve having a radius of 447.62 feet, an internal angle of 17°-44'-31", a chord distance of 138.05 feet bearing North 11°-42'-35" West to a 5/8" capped iron pin set at the northeast corner of land conveyed to said G-K Limited;

4. Thence South 89°-15'-00" West 95.56 feet, along the northerly line of land conveyed to said G-K Limited, to a 5/8" capped iron pin set at the northwest corner of said G-K Limited;

5. Thence South 36°-38'-50" West 188.81 feet, along the westerly line of land conveyed to G-K Limited to a 5/8" capped iron pin set in the southerly line of said Original Lot No. 81;

6. Thence South 89°-15'-00" West 99.66 feet, along the southerly line of said Original Lot No. 81, to a 5/8" capped iron pin set in the easterly Right-of-Way Line of Relocated State Route 176;

7. Thence North 11°-47'-06" West 16.84 feet to a 5/8" capped iron pin set at an angle point in said easterly Right-of-Way Line of Relocated State Route 176;

8. Thence North 00°-27'-01" West 320.89 feet to a 5/8" capped iron pin set at an angle point in said easterly Right-of-Way Line of Relocated State Route 176;

9. Thence North 06°-42'-43" East 221.74 feet to a 5/8" capped iron pin set at an angle point in said easterly Right-of-Way Line of Relocated State Route 176;

10. Thence North 29°-43'-00" West 255.55 feet to a 5/8" capped iron pin set at an angle point in said easterly Right-of-Way Line of Relocated State Route 176;

11. Thence North 16°-06'-05" West 101.49 feet to a to a 5/8" capped iron pin set at an angle point in said easterly Right-of-Way Line of Relocated State Route 176;

12. Thence North 24°-38'-40" West 74.56 feet, along said easterly Right-of-Way Line of Relocated State

Route 176, to a to a 5/8" capped iron pin set at the southwest corner of land conveyed to Agincourt Holdings I. LLC by Instrument No. 200102140931 of Cuyahoga County Records;

13. Thence North 89°-11'-20" East 515.86 feet, along the southerly line of land conveyed to said Agincourt Holdings to a 5/8" capped iron pin set in the westerly line of land conveyed to Gregory Happ by deed recorded in Instrument No. 200102140933 of Cuyahoga County Records;

14. Thence South 00°-41'-53" East 947.45 feet, along the westerly line of land conveyed to said Gregory Happ to the Principal Point of Beginning and containing 7.8913 acres of land.

The basis of bearings for this description is an assumed meridian to denote angles only. This description prepared on February 1, 2004 by Michael Straub, P.S. 7055 in the State of Ohio of R.E. Warner Surveyors, LLC, Westlake, Ohio and is based upon a survey by R.E. Warner Surveyors, LLC dated February 2004. Iron pins set are 5/8" x 30" with yellow "RE WARNER & ASSOC" cap. Corners will be set approximately March, 2004.

Section 2. That the cost of the acquisition of the easement rights shall not exceed the appraised value of the easement rights so acquired or the amount of the jury verdict in the event eminent domain is needed to acquire the easement interests in and to the premises. The purchase price, appraisal, title, escrow, and all other costs incurred in acquiring the easement interests shall be paid from Fund No. 14 SF 029, Request No. 125777.

Section 3. That the Director of Community Development is authorized to shall execute all documents, on behalf of the City of Cleveland, necessary to acquire certain rights in and to the premises.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 1285-04.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 91st Street to Herman Thomas and Ethel L. Thomas.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed of by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of

Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 107-12-021, as more fully described below, to Herman Thomas and Ethel L. Thomas.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 107-12-021

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 104 in Curtiss and Ambler Wade Park and Superior Subdivision of part of Original One Hundred Acre Lot Nos. 384, as shown by the recorded plat in Volume 21 of Maps, Page 5 of Cuyahoga County Records, and being 40 feet front on the Easterly side of East 91st Street, and extending back 126.46 feet on the Northerly line, 126.76 feet on the Southerly line, and having a rear line of 40 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 1672-04.

By Council Members Gordon, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an Enterprise Zone Agreement with Third Dunkin' Donuts Realty, Inc. and Cleveland CPL, LLC to provide for a ten-year, sixty-five percent tax abatement for certain tangible personal property and inventory as an incentive to construct a central production line for the manufacturing of Dunkin' Donuts products at 4660 Hinckley Industrial Parkway in the Cleveland Area Enterprise Zone.

Whereas, under Ordinance No. 948-95, passed June 19, 1995, this Council designated an area which is in the City of Cleveland and described in File No. 948-95-A, as the Cleveland Area Enterprise Zone (the "Zone") under Chapter 5709 of the Ohio Revised Code; and

Whereas, in August, 1995, the Director of Development of the State of Ohio determined that the Zone contains the characteristics in Section 5709.61(A) of the Revised Code and certified the area as an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Revised Code; and

Whereas, Third Dunkin' Donuts Realty, Inc. and Cleveland CPL, LLC (the "Enterprise") has proposed to construct a central production line for the manufacturing of Dunkin' Donuts products at 4660 Hinckley Industrial Parkway in the Cleveland Area Enterprise Zone; and

Whereas, the Enterprise has certified to the City it would be at a competitive disadvantage operating at this location if taxes on certain tangible personal property, including new machinery, equipment, furniture, fixtures, and inventory were not abated; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, safety, property, and welfare and that its enactment is a necessary prerequisite to providing immediate assistance to create and preserve job opportunities and advance and promote commercial and economic development in the City of Cleveland, and the assistance is immediately necessary or jobs will be lost; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That this Council approves the application of the Enterprise for enterprise zone incentives on the basis that the Enterprise is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Cleveland Area Enterprise Zone and to improve the economic climate of the City of Cleveland.

Section 2. That the Director of Economic Development is authorized to enter into an Enterprise Zone Agreement with the Enterprise to provide for a ten-year, sixty-five percent (65%) tax abatement for certain tangible personal property, including new machinery, equipment, furniture, fixtures, and inventory; the abatement shall be subject to annual review of the Tax Incentive Review Council.

Section 3. That the terms of the tax abatement shall be in accordance with the terms in the Sum-

mary contained in File No. 1672-04-B. These terms shall not be amended, nor shall the tax abatement be assignable or transferable to any entity, without the prior legislative authorization by Cleveland City Council.

Section 4. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable under Chapter 5709 of the Revised Code and the funds are appropriated for the purposes listed in Chapter 5709 of the Revised Code. The fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 5. That the Director of Law shall prepare and approve the agreement.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1686-04.

By Council Member Cimperman.

An emergency ordinance authorizing the Director of Public Service to issue a permit to The Federal Reserve Bank of Cleveland to encroach into the right-of-way of Superior Avenue, Rockwell Avenue and East 6th Street with federally mandated security devices for "stand off" and "crash" protection of the facility.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to issue a permit, revocable at the will of Council, and assignable by the Permittee with the written consent of the Director of Public Service to The Federal Reserve Bank of Cleveland, P.O. Box 6387, Cleveland, Ohio 44101-1387 for the construction, use, and maintenance of security devices which will encroach into the public right-of-way of Superior Avenue N.E., Rockwell Avenue N.E. and East 6th Street, as more fully described as follows:

**FEDERAL RESERVE BANK
ENCROACHMENT AREA**

Beginning on the Northerly line of Superior Avenue (132 feet wide) at its intersection with the Easterly line of East 6th Street (99 feet wide);

thence Northerly along the Easterly line of said East 6th Street to its intersection with the Southerly line of Rockwell Avenue (66 feet wide);

thence Easterly along the Southerly line of said Rockwell Avenue about 360 feet;

thence Northerly at right angles to the last described line about 12 feet to the existing curb line of said Rockwell Avenue;

thence Westerly and parallel with the Southerly line of said Rockwell

Avenue to a point about 25 feet Westerly by rectangular measurement from the Easterly line of East 6th Street as aforesaid;

thence Southerly and parallel with the Easterly line of said East 6th Street to a point about 25 feet Southerly by rectangular measurement from the Northerly line of Superior Avenue as aforesaid;

thence Easterly and parallel with the Northerly line of said Superior Avenue to a point about 355 feet Easterly from the Easterly line of East 6th Street as aforesaid;

thence Northerly and parallel with the Easterly line of said East 6th Street to the Northerly line of said Superior Avenue;

thence Westerly along the Northerly line of said Superior Avenue to the Easterly line of East 6th Street and the place of beginning.

Description approved by Gregory J. Esber, Acting Section Chief Plats, Surveys and House Numbers.

Section 2. That said security devices will be placed within the public right-of-way as aforesaid in Section 1, and will be constructed in accordance with the plans and specifications approved by the Commissioner of Engineering and Construction. That all other required permits, including a building permit, shall be obtained before said security devices are constructed.

Section 3. That the permit herein authorized shall reserve right of ingress and egress to the City of Cleveland and that said Permit shall require the Permittee to provide Commercial General Liability Insurance and that the Permittee shall pay any applicable taxes and assessments due and owing on the permitted encroachment area.

Section 4. That the permit herein authorized shall be prepared by the Director of Law and shall be issued only when, in the opinion of the Director of Law, the City of Cleveland has been properly indemnified against any and all loss which may result from said permit.

Section 5. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1820-04.

By Council Member Gordon.

An emergency ordinance designating Benjamin Franklin School of Tomorrow and Community Garden as a Cleveland Landmark.

Whereas, under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, the Cleveland Landmarks Commission (the "Commission"), has proposed to designate Benjamin Franklin School of Tomorrow and Community Garden as a landmark; and

Whereas, a public hearing under division (b)(2) of Section 161.04 was held on April 22, 2004 to discuss the proposed designation of Benjamin Franklin School of Tomorrow and Community Garden as a landmark; and

Whereas, the Commission has recommended designation of Benjamin Franklin School of Tomorrow and Community Garden as a landmark and has set forth certain findings of fact constituting the basis for its decision; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and safety in that the immediate protection of the historic landmark is necessary to safeguard the special historical, community, or aesthetic interest or value in the landmark; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That Benjamin Franklin School of Tomorrow and Community Garden whose street address in the City of Cleveland is 1905 Spring Road, S.W., also known as Cuyahoga County Auditor's Permanent Parcel Number 009-27-001, and the land embracing the site thereof, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, is designated a landmark under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1847-04.

By Council Members Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more leases and/or operating agreements with other governmental entities, including the Cleveland Municipal Court, for use of unused space at 205 St. Clair Avenue.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Finance is authorized to enter into one or more leases and/or operating agreements with governmental entities, including the Cleveland Municipal Court, for use of unused space at 205 St. Clair Avenue which is not needed for City use.

That the leases and/or operating agreement or agreements may authorize the governmental entities to make improvements to the unused spaces at 205 St. Clair Avenue subject to the approval of appropriate City agencies and officials.

Section 2. That the leases or operating agreements authorized by this ordinance shall each be for a term determined by the Board of Control and at a rate determined by the Board of Control to be fair market value, which may include other valuable considerations.

Section 3. That the Director of Finance, the Director of Law, and other appropriate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to effect the leases and operating agreements authorized by this ordinance.

Section 4. That the leases and the operating agreements shall be prepared by the Director of Law and shall contain any terms and conditions that the Director of Law deems necessary to protect and benefit the public interest.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1849-04.

By Council Members Reed and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more contracts of labor and materials necessary to install a corrugated tote storage system for the Property Section, for the Division of Police, Department of Public Safety.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Safety is authorized to make one or more written contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for each or all of the following items: labor and materials necessary to install a corrugated tote storage system for the Property Section, to be purchased by the Commissioner of Purchases and Supplies for a gross price, for the Division of Police, Department of Public Safety.

Section 2. That the cost of the contract or contracts authorized shall be paid from Fund No. 10 SF 027, Request No. 145137.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1854-04.

By Council Members Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of the City Planning Commission to enter into a Memorandum of Understanding with the Towpath Trail Partnership Committee and various leases, agreements and amendments necessary to effectuate the purpose of the Memorandum of Understanding.

Whereas, the Towpath Trail is the most important regional trail project to be completed in Cuyahoga County and is critical to the development and diversification of the greater Cleveland community; and

Whereas, the approximate fifteen miles of Towpath Trail completed to date in Cuyahoga County are part of the 101-mile trail spine being constructed along the length of the Ohio & Erie National Heritage Canalway; and

Whereas, the 101-miles of trail in the Canalway are part of the 460-mile Ohio to Erie Trail, which will connect Cincinnati, Columbus, and Cleveland; and

Whereas, the six miles of the Towpath Trail that is the subject of the proposed MOU represents the final uncompleted section of the towpath in Cuyahoga County; and

Whereas, the City, as a member of the Steering Committee created to develop the *Towpath Trail Extension: Alignment & Design Study*, participated in developing the alternatives for alignment of the Towpath Trail to be completed, and demonstrated its commitment to building the preferred alignment as identified in the *Alignment & Design Study*; and

Whereas, the City, as a member of the Towpath Trail Partnership Committee, the establishment of which is the subject of the proposed MOU, will be involved in all phases of project implementation with primary responsibilities for (1) ownership of record for the land to be occupied by the Towpath Trail and accessory lands serving the Towpath Trail, except for lands controlled or owned by the County or land obtained by the County for the Towpath Trail and accessory lands serving the Towpath Trail, (2) making available existing public rights-of-way that are necessary for the project, (3) making available lands owned or controlled by the City that are needed for the Towpath Trail and accessory lands serving the Towpath Trail, and remaining the owner of record of such lands; (4) coordinating improvements to public rights-of-way that are directly related to the implementation of the project; (5) managing in-house legislative or administrative approvals needed for the project; (6) prioritizing completion of neighborhood connectors; and (7) future land use and alignment changes are subject to approval and adoption by the City; and

Whereas, to evidence the understanding of the members of the Towpath Trail Partnership Committee and the City with respect to the completion of the final six miles of the Towpath Trail, the parties desire to enter into a Memorandum of Understanding, various leases, pur-

chase agreements and any other agreements necessary to effectuate the above transactions and objectives; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of the City Planning Commission is authorized to enter into a Memorandum of Understanding ("MOU") with the Towpath Trail Partnership Committee ("Committee") memorializing benefits and obligations contained therein. The Memorandum of Understanding shall be substantially similar to the copy placed in File No. 1854-04-A. The Director of the City Planning Commission is further authorized to enter into various agreements necessary to carry out the purposes of the MOU.

Section 2. That the MOU placed in the file identified in this ordinance and all documents and agreements necessary to complete the MOU shall be prepared by the Director of Law and shall contain, in addition to the terms and conditions stated in the MOU, such additional terms and conditions necessary to protect and benefit the City of Cleveland.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 1869-04.

By Council Members Dolan, Reed, White and Jackson.

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 401.151, relating to electric personal assistive mobility device; and to amend Section 471.041 of the codified ordinances, as enacted by Ordinance No. 91-96, passed March 18, 1996, relating to persons operating motorized wheelchairs.

Whereas, the Ohio Revised Code defines an electric personal assistive mobility device; and

Whereas, the Codified Ordinances of the City of Cleveland, Ohio, currently refer to, but do not define electric personal assistive mobility device; and

Whereas, passage of this ordinance will provide for a definition of an electric personal assistive mobility device that is consistent with state law; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are hereby supplemented by enacting

new Section 401.151 to read as follows:

Section 401.151 Electric Personal Assistive Mobility Device

"Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

2. Insert new Sections 2 and 3 to read as follows:

Section 2. That Section 471.041 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 91-96, passed March 18, 1996, is amended to read as follows:

Section 471.041 Persons Operating Motorized Wheelchairs

Every person operating a motorized wheelchair or an Electric Personal Assistive Mobility Device shall have all of the rights and duties applicable to a pedestrian that are contained in this chapter, except those provisions which by their nature can have no application.

Section 3. That existing Section 471.041 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 91-96, passed March 18, 1996, is repealed.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 1964-04.

By Council Member Zone.

An ordinance establishing a Planned Unit Development Overlay District and changing the Use, Area and Height Districts of parcels bounded by W. 76th Street, Goodwalt Ave. and W. 73rd Street from General Industry, Semi-Industry and Two Family to a Multi-Family Residential District, a 'G' Area District and a '3' Height District (Map Change No. 2140, Sheet No. 1)

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Use, Area and Height Districts of lands bounded and described as follows:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of W. J. Gordon's Allotment of part of Original Brooklyn Township Lot Nos. 29 and 30, as shown by the plat recorded in Volume 17 Page 9 of Cuyahoga County Map Records, part of George Smith's Allotment of part of Original Brooklyn Township Lot No. 30 as shown by the plat recorded in Volume 17 Page 12 of Cuyahoga County Map Records, part of Minerva Ramsey's Allotment of part of Original Brooklyn Township Lot No. 30 as shown by the plat recorded in Volume 7 Page 29 of Cuyahoga County Map Records, all of that portion of West 74th Street vacated by Ordinance No. 1140-75 and shown by the plat recorded in Volume 217 Page 34 of Cuyahoga County Map Records, all of that portion of Stanweld Avenue N. W. vacated by Ordinance No. 1509-72 and shown by the plat recorded in Volume 211 Page 72 of Cuyahoga County Map Records and all those portions of Darlington Street N. W., West 75th Street, and a 10 foot wide alley vacated by Ordinance No. 6426 and further bounded and described as follows:

Beginning at a Monument Stone found on the centerline of Goodwalt Avenue (40 feet wide), said point being the principal point of beginning of the premises herein intended to be described;

Thence S 89°-56'-53" W, along said centerline of Goodwalt Avenue, passing through a Monument Stone found (0.47' W), a distance of 135.02 feet to a PK Nail found (0.07' N & 0.53' W), at its intersection with the centerline of West 76th Street (50 feet wide);

Thence N 00°-01'-18" W, along centerline of said West 76th Street, a distance of 647.69 feet to its intersection with the southerly line of the Conrail right-of-way;

Thence N 63°-31'-18" E, along the southerly line of said Conrail right-of-way, a distance of 885.68 feet, passing through a 5/8" iron pin found (ID - D&N 6914/7315 - 1.02' S & 0.09' W) on the westerly line of West 73rd Street (50 feet wide) to its intersection with the northerly prolongation of the centerline of West 73rd Street;

Thence S 00°-33'-18" W, along the centerline of said West 73rd Street passing through a Monument w/1" iron pin found, a distance of 848.47 feet to its intersection with the westerly prolongation of the southerly line of a parcel of land conveyed to O'Malley Building Company Inc. by deed dated May 11, 1993 and recorded in Vol. 93-4450, Pg. 46 of Cuyahoga County Map Records;

Thence S 89°-26'-39" E, along said southerly line a distance of 173.56 feet, passing through a 5/8" iron pin found (0.24' S & 0.03' W) on the easterly line of West 73rd Street (50 feet wide) to its intersection with the westerly line of Waite and Edwards Subdivision as shown by the plat recorded in Volume 9 Page 16 of Cuyahoga County Map Records;

Thence S 00°-22'-06" W, along said westerly line of Waite and Edwards Subdivision, a distance of 214.00 feet to its intersection with the northerly line of a parcel of land conveyed to Stadium Corp. LLC by deed dated May 17, 2002 and recorded as Auditor's File No. 200205170734;

Thence S 89°-26'-24" W, along the said northerly line passing through a 5/8" iron pin found (0.25' S & 0.03' W) on the easterly line of West 73rd Street (50 feet wide) a distance of 174.26 feet to its intersection with the centerline of W. 73rd Street;

Thence N 00°-33'-18" E, along the centerline of said West 73rd Street a distance of 172.68 feet to its intersection with the easterly prolongation of the northerly line of land conveyed to Michael M. & Karen O'Malley by deed dated July 11, 2002 and recorded as Auditor's File No. 200207110851;

Thence N 89°-26'-42" W, along the northerly line of land so conveyed, passing through a 5/8" iron pin found (ID - D&N 6914/7315 - 0.16' N), a distance of 192.58 feet to a 5/8" iron pin found (ID - D&N 6914/7315 - 0.15' N) at its intersection with the easterly line of George Smith's Allotment;

Thence S 00°-33'-18" W, along the easterly line of said George Smith's Allotment, a distance of 125.00 feet to its intersection with the northerly line of said Goodwalt Avenue;

Thence S 89°-26'-42" E, along the northerly line of said Goodwalt Avenue, a distance of 2.74 feet to its intersection with easterly line of West 74th Place (28 feet wide);

Thence S 00°-35'-23" W, along said easterly line of West 74th Place, a distance of 11.42 feet to its intersection with the easterly prolongation of the centerline of Goodwalt Avenue;

Thence S 89°-26'-42" W, along said prolongation of the centerline of Goodwalt Avenue, a distance of 12.64 feet to its intersection with the centerline of W. 74th Place;

Thence S 00°-35'-23" W, along said center line of West 74th Place, a distance of 101.49 feet to its intersection with the easterly prolongation of the northerly line of land conveyed to Calin P. Farcas by deed dated July 9, 1993 and recorded in Vol. 93-7144, Page 41 of Cuyahoga County Map Records;

Thence S 89°-29'-51" W, along said prolongation and northerly line, passing through a 5/8" iron pin found (0.19' N), a distance of 134.00 feet to a 5/8" iron pin found (0.11' S & 0.12' E) and a Drill hole found (0.30' S & 0.36' W) at its intersection with the easterly line of Sublot No. 5 in said George Smith Allotment;

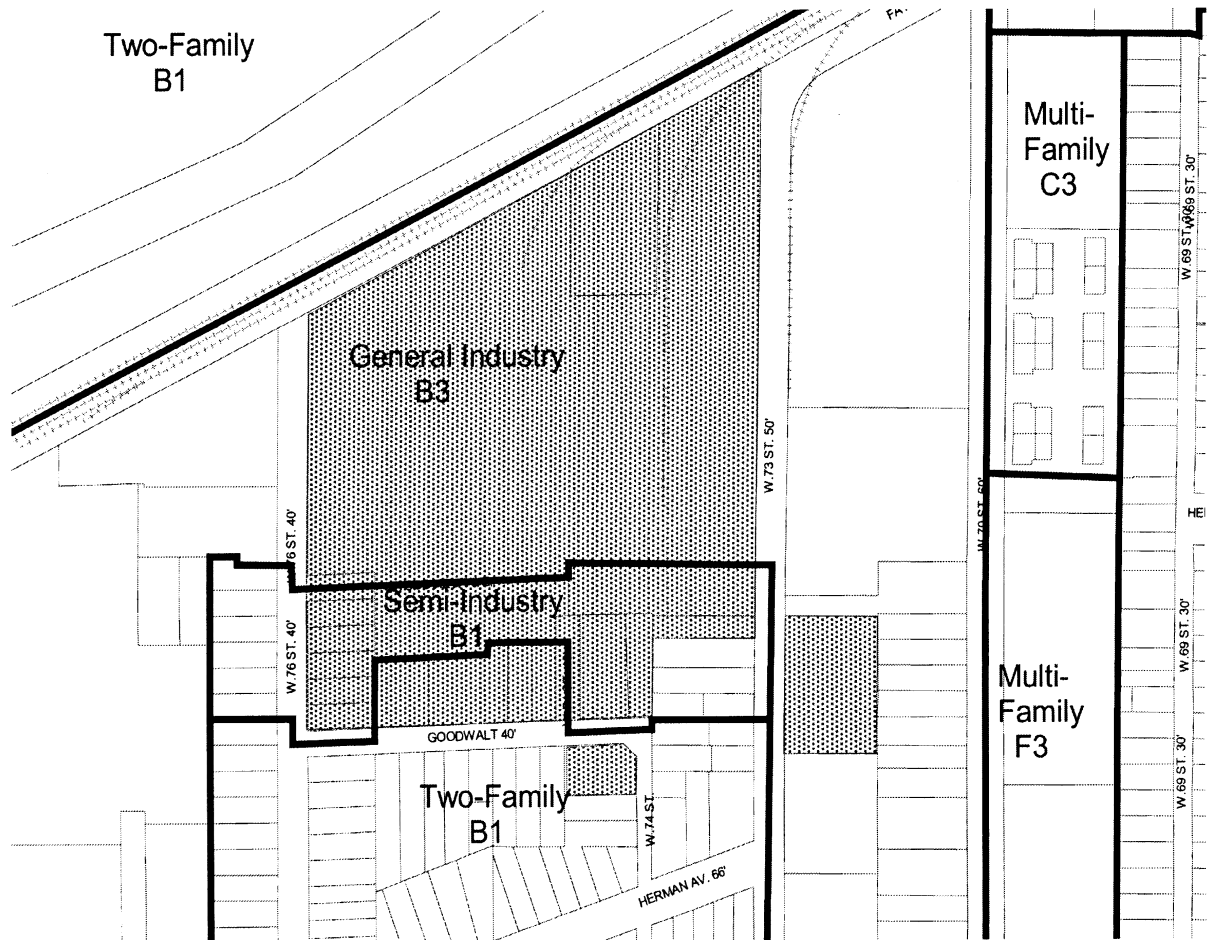
Thence N 00°-35'-23" E, along said easterly line and its northerly prolongation a distance of 95.00 feet to a point on the center line of said Goodwalt Avenue;

Thence S 87°-43'-48" W, along said centerline of Goodwalt Avenue, a distance of 311.29 feet to the principal point of beginning and containing 15.6402 acres of land and as outlined and shaded on the attached map is designated a Planned Unit Development Overlay District (PUD) in accordance with the provisions of Chapter 334 of the Codified Ordinances of Cleveland, Ohio, 1976 and changed to a Multi-Family Residential District, a 'G' Area District and a '3' Height District.

Section 2. That the changed designation of lands described in Section 1 shall be identified as Map Change No. 2140, Sheet No. 1, and shall be made upon the Building Zone Maps of the City of Cleveland on file in the office of the Clerk of Council and on file in the office of the City Planning Commission by the appropriate person designated for this purpose by the City Planning Commission.

Section 3. That no building permit shall be issued by the City of Cleveland for property located within the Planned Unit Development Overlay District established by this ordinance unless the building permit application conforms with the PUD project plan approved by this ordinance.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.



Passed December 13, 2004.
Effective January 22, 2005.

Ord. No. 2011-04.

By Council Members Britt, Conwell, Sweeney and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Service to employ one or more professional consultants to perform design engineering services for the Cornell Road Bridge and authorizing the Commissioner of Purchases and Supplies to acquire for right-of-way purposes such real property that is necessary to make the improvement.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to perform design engineering services for the Cornell Road Bridge over CSX, N & S and RTA.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Service from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Service for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Service, and certified by the Director of Finance.

Section 2. That notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Commissioner of Purchases and Supplies is authorized to acquire for right-of-way purposes the real property that is necessary to make the improvement. The consideration to be paid for the property shall not exceed its appraised value.

Section 3. That the Director of Public Service is authorized to execute on behalf of the City all documents necessary to acquire the property and to employ and pay all fees for title companies, surveys, escrows, appraiser, and all other costs necessary for the acquisition of the property.

Section 4. That the cost of contract or contracts and property acquisition authorized shall be paid from Fund Nos. 20 SF 364, 20 SF 373, 20 SF 380, 20 SF 383, 20 SF 394, and 20 SF 500, Request No. 149312.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2103-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to employ one or more professional consultants to provide various environmental services necessary to comply with federal, state and local laws, rules, regulations, statutes, ordinances, permits, orders, policies and guidance.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to provide various environmental services necessary to comply with federal, state and local laws, rules, regulations, statutes, ordinances, permits, orders, policies and guidance.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Port Control from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Port Control for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Port Control, and certified by the Director of Finance.

Section 2. That the cost of contract or contracts authorized shall be paid from Fund Nos. 60 SF 001, 60 SF 104, 60 SF 105, 60 SF 106, and from any funds or subfunds to which are credited any federal grants or federal PFC authorization for the above contract, and the proceeds from the sale of any airport revenue bonds issued for a purpose which includes the above contract, Request No. 150560.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2104-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to enter into one or more contracts with Lawhon & Associates, Inc. for professional services necessary for collection, sampling and analyses, preparing of reports and recommendations transportation, and disposal of surface and ground water encountered during construction at Cleveland Hopkins International Airport.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to enter into one or more contracts with Lawhon & Associates, Inc. for professional services necessary for collection, sampling and analyses, preparing of reports and recommendations, transportation, and disposal of surface and ground water encountered during construction at Cleveland Hopkins International Airport, based on their proposal dated October 1, 2004, in the total sum of \$940,000.00, for the Department of Port Control. That the cost of contract or contracts authorized shall be paid from Fund Nos. 60 SF 001, 60 SF 104, 60 SF 105, 60 SF 106, and from any funds or subfunds to which are credited any federal grants or federal PFC authorization for the above contract, and the proceeds from the sale of any airport revenue bonds issue for a purpose which includes the above contract, Request No. 150561.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2105-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to enter into one or more contracts with Pro-tech Engineering for professional services necessary to maintain specialized computer equipment at the Centralized Deicing Facility at Cleveland Hopkins International Airport.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to enter into one or more contracts with Pro-tech Engineering for professional services necessary to maintain specialized computer equipment at the Centralized Deicing Facility at Cleveland Hopkins International Airport, in the total sum of \$40,000.00, for the Department of Port Control. That the cost of contract or contracts authorized shall be paid from Fund No. 60 SF 001, Request No. 150562.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2108-04.
By Council Members Britt and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2005 Tobacco Control Program; authorizing the purchase by one or more requirement contracts of supplies, equipment, and services; and authorizing the director to enter into one or more contracts with various agencies to implement the grant.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$88,362, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2005 Tobacco Control Program, for the purposes in the summary and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No. 2108-04-A, made a part hereof as if fully rewritten herein, is approved in all respects.

Section 3. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 4. That the Director of Public Health is authorized to enter into one or more contracts with various agencies necessary to implement the grant as described in the file.

Section 5. That the Director of Public Health is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements during the grant term of the necessary items of supplies, equipment, and services to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Health. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 6. That the costs of the contract or contracts shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance and shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all

the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
 Effective December 17, 2004.

Ord. No. 2109-04.
By Council Members Britt and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2005 Cardiovascular Disease Program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$80,895, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2005 Cardiovascular Disease Program, for the purposes in the summary and budget and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in summary and budget for the grant.

Section 2. That the summary and budget for the grant, File No. 2109-04-A, made a part as if fully rewritten herein, is approved in all respects.

Section 3. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
 Effective December 17, 2004.

Ord. No. 2110-04.
By Council Members Britt and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Ohio Department of Health for the 2005 Federal AIDS Prevention Program; and to enter into contract with various agencies to implement the program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$817,656, and any other funds as they become available during the grant term,

from the Ohio Department of Health, to conduct the 2005 Federal AIDS Prevention Program, for the purposes in the summary and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No. 2110-04-A, made a part as if fully rewritten herein, is approved in all respects.

Section 3. That the Director of Public Health is authorized to enter into one or more contracts for the implementation of the program as described in the summary contained in the file, payable from the fund or funds to which are credited the grant proceeds accepted under this ordinance with the following agencies, in the following amounts:

Agency	Amount
AIDS Taskforce of Greater Cleveland	\$190,000.00
BlackOut Unlimited	49,500.00
Cleveland Treatment Center	193,500.00
Free Clinic of Greater Cleveland	40,000.00
HUMADAOP	55,500.00
Northeast Ohio Neighborhood Health Services	51,000.00
Recovery Resources	20,500.00
Regional Advisory Group Support	8,000.00

In addition, the sum of not more than \$93,576.00 is appropriated to the Department of Public Health for administrative costs of implementing this program and the sum of not more than \$116,080.00 is appropriated for the operation of the Disease Intervention Specialist Services Program conducted by the Department.

Section 4. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
 Effective December 17, 2004.

Ord. No. 2112-04.
By Council Members Reed and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the U.S. Department of Justice for the Local Law Enforcement Block Grant Program; and to enter into one or more contracts necessary to implement the program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Safety is authorized to apply for and accept a grant in the amount of \$498,515, from the U.S. Department of Justice, to conduct the Local Law

Enforcement Block Grant Program, for the purposes in the application; that the Director of Public Safety is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes in the application for the grant.

Section 2. That the application for the grant, File No. 2112-04-A, made a part as if fully rewritten, including the obligation of the City of Cleveland to provide a cash match in the sum of \$55,391, payable from Fund Nos. 10 SF 025, 10 SF 027, and 10 SF 049, is approved in all respects.

Section 3. That the Director of Public Safety shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 4. That the Director of Public Safety is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the necessary items of equipment and supplies needed to implement the program. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control shall determine. Alternate bids for a period less than the grant term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 5. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Safety may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 6. That the Director of Public Safety is authorized to employ by one or more contracts a consultant or firm of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to implement the program as described in the file.

The selection of the consultant or consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Safety from a list of qualified consultants available for the employment as may be determined after a full and complete canvass by the Director of Public Safety for the purpose of compiling the list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract authorized shall be prepared by the Director of Law, approved by the Director of Public Safety, and certified by the Director of Finance.

Section 7. That the cost of the professional services and purchases authorized by this ordinance shall be charged against the fund or funds which are credited the grant proceeds accepted under this ordinance and shall be charged against the proper appropriation account and the Director of Finance shall certify the amount of the initial pur-

chase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract certified by the Director.

Section 8. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2115-04.
By Council Members Reed and Jackson (by departmental request).
An emergency ordinance to amend the title and Section 4 of Ordinance No. 623-04, passed May 17, 2004, relating to applying for and accepting a grant from the United States Department of Justice for the Children Who Witness Violence Program; and authorizing one or more contracts to implement the program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the title and Section 4 of Ordinance No. 623-04, passed May 17, 2004, are amended to read as follows:

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the United States Department of Justice for the Children Who Witness Violence Program; and authorizing the director to enter into one or more contracts with Cuyahoga County to implement the program.

Section 4. That the Director of Public Safety is authorized to enter into one or more contracts with Cuyahoga County to implement the program as described in the file.

Section 2. That the existing title and Section 4 of Ordinance No. 623-04, passed May 17, 2004, are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2117-04.
By Council Members Reed and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the Ohio Department of Public Health for the Regional Metropolitan Medical Response Program; and authorizing the purchase by one or more requirement contracts of equipment, supplies, and services; and authorizing the Director to employ one or more professional consultants to implement the grant.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Safety is authorized to apply for and accept a grant in the approximate amount of \$100,000, from the Ohio Department of Public Health to conduct the Regional Metropolitan Medical Response Program; that the Director of Public Safety is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the summary for the grant contained in the file described below.

Section 2. That the summary for the grant, File No. 2117-04-A, made a part of this ordinance as if fully rewritten is approved in all respects.

Section 3. That the Director of Public Safety is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to implement the grant as described in the file.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Safety from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Safety for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Safety, and certified by the Director of Finance.

Section 4. That the Director of Public Safety is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements during the grant term of the necessary items of equipment, supplies, and services, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Safety. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 5. That the costs of the contract or contracts shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance and shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 6. That the Director of Public Safety shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2118-04.
By Council Members Reed and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the County of Cuyahoga for the FY 2003 State Homeland Security, Part I Training Program; and authorizing the purchase by one or more requirement contracts of equipment, supplies, and services; authorizing the director to employ one or more professional consultants; and authorizing the director to enter into contract with the Cuyahoga County to implement the grant.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Safety is authorized to apply for and accept a grant in the approximate amount of \$49,500, from the County of Cuyahoga to conduct the FY 2003 State Homeland Security, Part I Training Program; that

the Director of Public Safety is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the award letter for the grant contained in the file described below.

Section 2. That the award letter for the grant, File No. 2118-04-A, made a part of this ordinance as if fully rewritten is approved in all respects.

Section 3. That the Director of Public Safety is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to implement the grant as described in the file.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Safety from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Safety for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Safety, and certified by the Director of Finance.

Section 4. That the Director of Public Safety is authorized to enter into one or more contracts with Cuyahoga County to implement the grant as described in the file.

Section 5. That the Director of Public Safety is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements dur-

ing the grant term of the necessary items of equipment, supplies, and services, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Safety. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 6. That the costs of the contract or contracts shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance and shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 7. That the Director of Public Safety shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 8. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2119-04.
By Council Members Pierce Scott, Conwell, Johnson and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Parks, Recreation and Properties to make alterations and modifications in Contract No. 62764 for improvements to the Glenville Recreation Center Playground with R. DiLillo Company, for the Department of Parks, Recreation and Properties.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Parks, Recreation and Properties is authorized to make the following alterations and modifications in Contract No. 62764 with R. DiLillo Company for improvements to the Glenville Recreation Center Playground, for the Department of Parks, Recreation and Properties:

GLENVILLE RECREATION CENTER PLAYGROUND IMPROVEMENT
SUBSIDIARY PRICE AGREEMENT

ADDITIONS — ORIGINAL ITEMS

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
1	demolition, grading & site preparation .., complete (lump sum)	\$18,750.00
5	classified fill material .., complete (250 cy @ 20.00)	\$ 5,000.00
11	furnish & install 4" PVC ... complete (175 lf @ 7.00)	\$ 1,225.00
12	furnish & install 12" PVC .., complete (75 lf @ 25.00)	\$ 1,875.00
13	furnish & install precast catch basin .., complete (1 each @ 1,200.00)	\$ 1,200.00
15	break through connection w/ 4" PVC... complete (1 each @ 250.00)	\$ 250.00
16	break through connection w/ 12" PVC ... complete (1 each @ 500.00)	\$ 500.00
21	furnish & install 6" concrete .., complete (1200 sf @ 4.00)	\$ 4,800.00
27	furnish & install 12" x 18" curb .., complete (400 lf @ 22.00)	\$ 8,800.00
62	furnish & install 4" topsoil .., complete (2352 sy @ 2.70)	\$ 6,350.40
65	furnish & install seeded lawn areas .., complete (2352 sy @ 1.00)	\$ 2,352.00
2AA	furnish & install drinking fountain (baseball) .., complete (lump sum)	\$ 2,500.00
TOTAL ADDITIONS — ORIGINAL ITEMS		\$53,602.40

Original Contract Amount	\$ 399,571.88
Total Additions - Original Items	+ 53,602.40
REVISED CONTRACT AMOUNT	\$ 453,174.28

Which alteration has been recommended in writing by the Director of Parks, Recreation and Properties, countersigned by the Mayor, and consented to by the surety on the contract, which price to be paid has been agreed on in writing and signed by the Director of Parks, Recreation and Properties and the Contractor. This alteration will cause an increase in the amount of the original contract in the sum of \$53,602.40, payable from Fund No. 20 SF 361.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2128-04.

By Council Member Cimperman.
An emergency ordinance authorizing the Director of Parks, Recreation and Properties to enter into contract with McKnight & Associates LTD to provide professional services necessary to design park improvements to Fairview Park.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Parks, Recreation and Properties is hereby authorized to enter into contract with McKnight & Associates LTD for professional services necessary to design park improvements to Fairview Park on the basis of its proposal dated August 27, 2004.

Section 2. That the cost of said contract and services shall be paid from Fund No. 20 SF 382 and/or any other funds appropriated and available for this purpose. The contract shall be prepared by the Director of Law, approved by the Director of Parks, Recreation, and Properties, and certified by the Director of Finance.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2130-04.

By Council Member O'Malley.
An emergency ordinance designating James Ford Rhodes High School as a Cleveland Landmark.

Whereas, under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, the Cleveland Landmarks Commission (the "Commission"), has proposed to designate James Ford Rhodes High School as a landmark; and

Whereas, a public hearing under division (b)(2) of Section 161.04 was held on April 22, 2004 to discuss the proposed designation of James Ford Rhodes High School as a landmark; and

Whereas, the Commission has recommended designation of James Ford Rhodes High School as a landmark and has set forth certain findings of fact constituting the basis for its decision; and

Whereas, this ordinance constitutes an emergency measure provid-

ing for the immediate preservation of the public peace, property, health, and safety in that the immediate protection of the historic landmark is necessary to safeguard the special historical, community, or aesthetic interest or value in the landmark; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That James Ford Rhodes High School whose street address in the City of Cleveland is 5100 Biddulph Avenue, S. W., also known as Cuyahoga County Auditor's Permanent Parcel Number 012-10-061, and the land embracing the site thereof, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, is designated a landmark under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2195-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of paint and paint supplies, for the various divisions of City government.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a one or two years of the necessary items of paint and paint supplies, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of

Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Finance is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Finance by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118704)

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2201-04.

By Council Members Brady, Johnson, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use located at 13004 Liberty Avenue and known as Emery Park to the St. Paul African Methodist Episcopal Church.

Whereas, the Director of Parks, Recreation and Properties has requested the sale of the City-owned property to the St. Paul African Methodist Episcopal Church (the "Redeveloper") no longer needed for public use and located at 13004 Liberty Avenue and known as Emery Park; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland,

Ohio, 1976, it is found and determined that the following described property is no longer needed for public use:

LEGAL DESCRIPTION

PARCEL 1 – BROOKSIDE BLVD.

Land to be conveyed from The City of Cleveland to St. Paul African Methodist Episcopal Church Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Rockport Township Lot No. 10, bounded and described as follows:

Beginning at a 5/8 inch capped (Selee #5471) iron pin set at the intersection of the southeasterly right of way line of Interstate Route No. 71, width varies, with the westerly prolongation of the northerly line of The Ford Realty Company's Liberty Subdivision No. 6, as shown by the recorded Plat in Volume 69, Page 12 of Cuyahoga County Map Records;

Thence South 89° 54' 58" East, along the said westerly prolongation of the northerly line of Liberty Subdivision No. 6, the northerly line of said Liberty Subdivision No. 6 and the northerly line of The Ford Realty Company's Liberty Subdivision No. 3, as shown by the recorded Plat in Volume 67, Page 8 of Cuyahoga County Map Records, a distance of 619.34 feet to a 5/8 inch capped (Selee #5471) iron pin set;

Thence North 00° 05' 02" East, a distance of 548.25 feet to a 5/8 inch capped (Selee #5471) iron pin set in the said southeasterly right of way line of Interstate Route No. 71;

Thence South 51° 38' 10" West, along the said southeasterly right of way line of Interstate Route No. 71, a distance of 164.30 feet to a 5/8 inch capped (Selee #5471) iron pin set at an angle point therein;

Thence South 48° 18' 20" West, continuing along the said southeasterly right of way line of Interstate Route No. 71, a distance of 288.43 feet to a 5/8 inch capped (Selee #5471) iron pin set at an angle point therein;

Thence South 47° 25' 33" West, continuing along the said southeasterly right of way line of Interstate Route No. 71, a distance of 374.72 feet to the place of beginning and containing 4.000 acres of land as surveyed by Howard R. Selee, Registered Surveyor No. 5471 of Howard R. Selee and Associates, Inc., Professional Land Surveyors, dated June 4, 2004, be the same more or less, but subject to all highways.

Section 2. That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to sell the above-described property to the Redeveloper at a price not less than fair market value as determined by the Board of Control, taking into account all restrictions, reversionary interests and similar encumbrances placed by the City of Cleveland in the deed of conveyance.

Section 3. That the conveyance shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain necessary provisions, including restrictive reversionary interests as may be specified by the Board of Control or Director of Law, which shall protect the parties as

their respective interests require and shall specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2203-04.
By Council Members Cimperman, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an Enterprise Zone Agreement with Sterling Data Center, LLC dba BlueBridge Networks to provide for a seven-year, sixty percent tax abatement on personal property acquisition in the form of new machinery and equipment investment at 1225 Euclid Avenue in the Cleveland Area Enterprise Zone.

Whereas, under Ordinance No. 948-95, passed June 19, 1995, this Council designated an area which is in the City of Cleveland and described in File No. 948-95-A, as the Cleveland Area Enterprise Zone (the "Zone") under Chapter 5709 of the Ohio Revised Code; and

Whereas, in August, 1995, the Director of Development of the State of Ohio determined that the Zone contains the characteristics in Section 5709.61(A) of the Revised Code and certified the area as an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Revised Code; and

Whereas, Sterling Data Center, LLC dba BlueBridge Networks (the "Enterprise") has proposed to enhance its company located at 1225 Euclid Avenue in the Cleveland Area Enterprise Zone; and

Whereas, the Enterprise has certified to the City it would be at a competitive disadvantage operating at this location if taxes on certain tangible personal property were not abated; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, safety, property, and welfare and that its enactment is a necessary prerequisite to providing immediate assistance to create and preserve job opportunities and advance and promote commercial and economic development in the City of Cleveland, and the assistance is immediately necessary or jobs will be lost; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That this Council approves the application of the Enterprise for enterprise zone incentives on the basis that the Enterprise is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Cleveland Area Enterprise Zone and to improve the economic climate of the City of Cleveland.

Section 2. That the Director of Economic Development is authorized to enter into an Enterprise Zone Agreement with the Enterprise to provide for a seven-year, sixty percent (60%) tax abatement on personal property acquisition in the form of new machinery and equipment investment; the abatement shall be subject to annual review of the Tax Incentive Review Council.

Section 3. That the terms of the tax abatement shall be in accordance with the terms in the Summary contained in File No. 2203-04-A. These terms shall not be amended, nor shall the tax abatement be assignable or transferable to any entity, without the prior legislative authorization by Cleveland City Council.

Section 4. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable under Chapter 5709 of the Revised Code and the funds are appropriated for the purposes listed in Chapter 5709 of the Revised Code. The fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 5. That the Director of Law shall prepare and approve the agreement.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2208-04.
By Council Members White and Jackson (by departmental request).

An emergency ordinance to amend various sections of Chapter 191 of the Codified Ordinances of Cleveland, Ohio, 1976; to enact new Sections within Chapter 191 relating to municipal income tax to comply with the laws of the State of Ohio affecting municipal income taxation as set forth in Amended Substitute House Bill 95; to repeal Section 191.050101, as amended by Ordinance No. 1835-74, passed November 25, 1974; and to authorize the Board of Review to authorize the Tax Administrator and/or designated employees to abate penalties, interest or both for good cause shown.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976,

Section 191.0101, as amended by Ordinance No. 2699-84, approved by voters February 5, 1985,

Sections 191.0302, 191.0303, 191.0305, 191.0306, 191.0307, 191.0308, and 191.0310 as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0311, as amended by Ordinance No. 2214-82, passed October 25, 1982,

Section 191.0314, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.0318, as amended by Ordinance No. 116-04, passed February 9, 2004.

Sections 191.0319 and 191.0320, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.0501, as amended by Ordinance No. 116-04, passed February 9, 2004.

Sections 191.0502, 191.0701, 191.0702, 191.0703, and 191.0704 as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.0705, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.0901, as amended by Ordinance No. 116-04, passed February 9, 2004.

Section 191.1101, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.1102, as amended by Ordinance No. 116-04, passed February 9, 2004.

Sections 191.1103, 191.1104, 191.1105, and 191.1301, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.1302, as amended by Ordinance No. 1670-85, passed September 23, 1985.

Section 191.1303, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.1304, as amended by Ordinance No. 1670-85, passed September 23, 1985.

Section 191.1305, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.1306, as amended by Ordinance No. 1704-72, passed December 12, 1972.

Section 191.1307, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Sections 191.1501 and 191.1502, as amended by Ordinance No. 229-81, passed March 9, 1981.

Sections 191.1503, 191.1504 and 191.1505, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.1506, as amended by Ordinance No. 1670-85, passed September 23, 1985.

Sections 191.1507, 191.1701, and 191.1702, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.1902, as amended by Ordinance No. 3008-A-83, passed February 23, 1984.

Section 191.1903, as amended by Ordinance No. 1670-85, passed September 23, 1985.

Sections 191.2001 and 191.2002, as amended by Ordinance No. 2027-69, passed June 1, 1970.

Section 191.2101, as amended by ordinance No. 1437-70, passed September 2, 1970.

Sections 191.2301, 191.2302, 191.2303, 191.2304, 191.2305, 191.2306, 191.2307, and 191.2308, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.2309, as amended by Ordinance No. 485-89, passed March 27, 1989.

Sections 191.2310, and 191.2311, as enacted by Ordinance No. 2393-66, passed November 28, 1966.

Section 191.2312, as amended by Ordinance No. 480-75, passed March 24, 1975.

Sections 191.2501, 191.2502, 191.2503, 191.2701, and 191.99, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

are amended to read as follows:

Section 191.0101 Purpose of Levy

(a) To provide funds for the purposes of general municipal operations, procurement of fixed assets or permanent improvements, payment of debt charges, the elimination of deficits in City funds and for all other lawful purposes, there shall be, and is hereby levied a tax on qualifying wages as defined in this Chapter, on net profits, and on all other taxable income, as hereinafter provided.

(b) Eight-ninths (8/9) of all monies derived from the tax so levied shall be unrestricted and may be applied to any of the purposes described in division (a) of this section.

(c) One-ninth (1/9) of all monies derived from the tax so levied shall be credited to a special revenue fund to be known as the Restricted Income Tax Fund. Moneys credited to the Restricted Income Tax Fund may be applied to only the following purposes:

(1) Elimination of any deficit balance in any fund of the City, provided that such deficit balance existed as of December 31, 1984, or exists at any subsequent time during a fiscal emergency period, as defined in Section 118.01 of the Revised Code; or

(2) Payment of the principal of or interest or any premium on any bonds or notes issued by the City to finance the construction, purchase or acquisition of fixed assets or permanent improvements; or

(3) Payment of the costs of constructing or acquiring (whether by outright purchase, lease or lease-purchase and irrespective of whether payment is made in installments or in a lump sum) of fixed assets of permanent improvements.

Section 191.0302 Administrator

"Administrator" means the Commissioner of the Division of Taxation, who also may be referred to in this Chapter as the "Tax Administrator."

Section 191.0303 Association

"Association" means any partnership, limited partnership, limited liability company, limited liability partnership, Subchapter S corporation ("S corporation") as defined in the Internal Revenue Code, or any other form of unincorporated business or enterprise taxed on a pass-through basis under the Internal Revenue Code. The terms "association," "pass-through entity," and "unincorporated business entity" are synonymous for purposes of this Chapter and the Rules and Regulations.

Section 191.0305 Business

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed. For purposes of determining if "business is conducted within the city," any direct and/or indirect ownership of an interest in an association, pass-through entity or unincorporated business entity that conducts business within the City is considered included.

Section 191.0306 Corporation

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, or any unincorporated entity treated as a corporation for federal income tax purposes. "Corporation" also includes a combined company, an electric company and a telephone company, as defined in Section 5727.01 of the Revised Code.

Section 191.0307 Employee

"Employee" means one who works for qualifying wages in the service of an employer.

Section 191.0308 Employer

"Employer" means an individual, partnership, association corporation governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a qualifying wage basis.

Section 191.0310 Gross Receipts

"Gross receipts" means total revenue from any source whatever.

Section 191.0311 Net Profits

"Net profits" mean (i) if the taxpayer is a corporation, the corporation's "adjusted federal taxable income" as that term is defined in Sections 718.01(A)(1)(a)-(f) of the Revised Code; (ii) if the taxpayer is an "association," "pass-through entity," or "unincorporated business entity," "adjusted federal taxable income" as that term is defined in Section 718.01(A)(1)(g) of the Revised Code; and (iii) if the taxpayer is an individual, the individual's profit, other than amounts specifically excluded in Section 718.01(F) of the Revised Code, required to be reported on federal Schedule C, Schedule E, or Schedule F, as provided by the Internal Revenue Service Code.

The "net profits" of a taxpayer shall be adjusted in accordance with the provisions of this Chapter, and the Rules and Regulations.

Section 191.0314 Person

"Person" means individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

With respect to provisions of this chapter that impose or prescribe a penalty, the term "person" shall mean the owners of an association, pass-through entity and unincorporated business entity and the officers of a corporation.

Section 191.0318 Taxable Income

"Taxable income" means all qualifying wages, net profits and all other income from whatever source derived set forth in Section 191.0501, and the Rules and Regulations as taxable.

Section 191.0319 Taxable Year

"Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

Section 191.0320 Taxpayer

"Taxpayer" means a person subject to the tax imposed by this chapter, whether the tax is imposed on the taxable income of the entity in

the hands of the entity or on the taxable income from the entity in the hands of the owners of the entity. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

Section 191.0501 Rate and Taxable Income

For the purposes specified in Section 191.0101, on and after January 1, 1967, an annual tax of one-half of one percent (0.5%) per annum shall be imposed upon the hereinafter specified income; provided that on and after July 1, 1968, the rate of tax shall be a total of one percent (1%) per annum; and that on and after March 1, 1979, the rate of such tax shall be a total of one and five-tenths percent (1.5%) per annum; and that on and after January 1, 1981, the rate of tax shall be two percent (2%) per annum. Such tax shall be imposed upon all taxable income as follows:

(a) On all qualifying wages, net profits and other taxable income earned and/or received on and after January 1, 1967 by residents of the City;

(b) (1) On all qualifying wages, earned and/or received on and after January 1, 1967, by nonresidents of the City for work done or services performed or rendered within the City or attributable to the City; on all net profits earned and/or received by a nonresident from the operation or conduct of any business or profession within the City; and on all other taxable income earned and/or received by a nonresident derived from or attributable to sources, events or transactions within the City;

(2) For nonresidents employed at a place of business or profession within the City, only those qualifying wages earned and/or received by such nonresident that are specifically attributable to a place or location worked that is outside the City will be treated as earned outside the City;

(c) (1) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all resident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes or professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1967, of a resident partner or owner of a resident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied;

(d) (1) On the portion attributable to the City of the net profits earned and/or received on and after Janu-

ary 1, 1967, of all nonresident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes, professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City, whether or not such association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes has an office or place of business in the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1967, of a resident partner or owner of a nonresident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied from wherever such business is located;

(e) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all corporations and all other entities and business activities not defined herein as associations, pass-through entity or unincorporated business entity treated as a pass-through entity for federal income tax purposes derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City, and/or derived from sales made, work done, services performed or rendered, and business, or other activities attributable to the City, whether or not such corporations, entities or business activities have an office or place of business in the City;

(f) On the net profits of an electric company, combined company or telephone company apportioned and attributable to the City in accordance with Section 718.01(F)(6) of the Revised Code and Chapter 5745 of the Revised Code;

(g) On all income derived from prizes, awards, gaming, wagering, lotteries or other similar games of chance by a resident from whatever source and from anywhere derived;

(h) On all income earned and/or received from covenants not to compete or similar agreements and on all income attributable to cancellation of indebtedness to the extent reported on the taxpayer's federal income tax return;

(i) On all guardian, executor, conservator, trustee or administrator fees earned and/or received by a taxpayer in connection with the operation or conduct of a business or profession;

(j) On all other compensation, net profits and income earned and/or received by the taxpayer that is not specifically exempted from the tax imposed by this chapter as set forth in Division 191.0901 and Section 718.01(F) of the Revised Code;

(k) (1) For taxable years beginning on or after January 1, 2004, the net profits from a business or profession shall be taxed only to the extent of the taxpayer's adjusted federal taxable income except that

nothing shall be construed as limiting the ability of the Tax Administrator to administer, audit, or enforce the provisions of this Chapter including making all necessary adjustments and allocations to adjusted federal taxable income to produce a fair and proper allocation of net profits to the City;

(2) Division (k)(1) of this section shall not apply to any taxpayer required to file a return under Section 5745.03 of the Revised Code or to the net profits from a sole proprietorship;

(1) For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, or in the case of a taxpayer who has a net profit from a business and the taxpayer is an individual, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the City, an amount other than the net profit required to be reported on Internal Revenue Service Schedules C or F from such sole proprietorship for the taxable year; and

(m) For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from rental activity required to be reported on Internal Revenue Service Schedule E, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the City, an amount other than the net profit from rental activities required to be reported by the taxpayer on Schedule E for the taxable year.

Section 191.0502 Effective Date

The city income tax shall be levied, imposed, collected and paid on any and all qualifying wages, net profits and taxable income as provided in Section 191.0501, earned and/or received on and after January 1, 1967.

Section 191.0701 Method of Determination

This Section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Revised Code.

(a) Except as otherwise provided in division (d) of this section, for taxable years beginning on or after January 1, 2004, the net profits from a business or profession conducted both within and without the City shall be considered as having a taxable situs in the City for purposes of imposing the city income tax to the extent of the amount determined by multiplying the entire net profits by a business allocation percent determined by the average ratio of the following:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in this division (a)(1), "real property" shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the

annual rental thereof by eight (8).

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the City under Section 718.011 of the Revised Code.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under the Rules and Regulations, so as to produce an equitable result.

(b) For taxable years beginning on or after January 1, 2004, no taxpayer shall use the books and records method of apportionment. Except as otherwise provided in Section 718.02 of the Revised Code and division (a) of this section, all taxpayers shall use the statutory apportionment formula set forth in this section.

(c) Except as otherwise provided in division (d) of this section, for taxable years beginning on or after January 1, 2004, the net profits from rental activity not constituting a business or profession shall be subject to tax by the City only if the property generating the net profit is located in the City.

(d) This section shall not apply to individuals who are residents of the City and, except as otherwise provided in Section 718.01 of the Revised Code, the City shall impose its tax on all income earned and/or received by residents of the City from whatever source derived in accordance with Section 191.0501 of this chapter.

Section 191.0702 Sales Made in the City

As used in Section 191.0701(a)(3), "sales made in the City" means:

(a) All sales of tangible personal property delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City;

(b) All sales of tangible personal property delivered within the City regardless of where title passes even though transported from a point outside the City, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City, and the sales result from such solicitation or promotion; or

(c) All sales of tangible personal property shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

Section 191.0703 Total Allocation
Add together the percentages determined in accordance with Section 191.0701(a), or such of the aforesaid percentages as are applicable to the

particular taxpayer, and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 191.0701.

A factor is applicable even though it may be allocable entirely within or without the City.

Section 191.0704 Rentals

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under divisions (c) to (e) of Section 191.0501, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(b) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties, is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits, of the lessee, whether or not such rental exceeds one hundred twenty-five dollars (\$125.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month. It is provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars per month (\$125.00).

Section 191.0705 Operating Loss; Carry Forward

(a) The portion of a net operating loss sustained in a taxable year subsequent to January 1, 1967, allocable to the City may be applied against the portion of the net profit of succeeding tax years allocable to the City, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(c) The Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.

Section 191.0901 Sources of Income Not Taxed

The tax provided for in this chapter shall not be levied on the following:

(a) Military pay or allowance of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard;

(b) Income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(c) Proceeds from welfare benefits, unemployment benefits, social security benefits;

(d) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;

(e) Receipts from seasonal or casual entertainment, amusements, sports events, and health and welfare activities when any such are conducted by bona fide charitable, religious, or educational organizations and associations;

(f) Alimony received;

(g) Personal earnings of any natural person under eighteen years of age;

(h) Compensation for personal injuries or for damages to property by way of insurance or otherwise;

(i) Interest, dividends, gains, and other revenue from intangible property described in Section 718.01(A)(5) of the Revised Code;

(j) Gains from involuntary conversion; cancellation of indebtedness, to the extent exempt from federal income tax; interest on Federal obligations; items of income already taxed by the State that the City is specifically prohibited from taxing; and income of a decedent's estate during the period of administration, except such income from the operation of a business;

(k) An S corporation shareholder's distributive share of net profits of the S corporation to the extent such distributive shares are allocated or apportioned to sources outside the State of Ohio other than any portion of the distributive shares of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Service Code;

(l) The rental value of a parsonage, or the rental allowance furnished as compensation and actually used for a parsonage, by a minister;

(m) Compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce;

(n) Compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the City to impose net income tax;

(o) Only the income items listed in this Section 191.0901 are not subject to the tax imposed by this chapter. All other compensation, net profits and other income earned and/or received by a taxpayer shall be subject to the tax imposed by this chapter unless prohibited by State or federal law.

Section 191.1101 Date for Filing Returns

(a) Each taxpayer who engages in business or whose qualifying wages are subject to the tax imposed by this chapter, except as herein provided, shall, whether or not a city income tax is due thereon, make and file a return on or before April 30 of the year following November 28, 1966, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

(b) Unless the filing exemption in division (e) of this section applies, for taxable years beginning after 2003, each taxpayer shall, whether or not a city income tax is due thereon, make and file an annual city income tax return or report on the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year.

(c) No taxpayer shall be required to file an annual city income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such taxpayer under the Internal Revenue Code.

(d) Tax returns required to be filed under this section shall be deemed filed when postmarked by the United States Postal Service or the date of receipt recorded by authorized delivery service as defined in Sections 5703.056 of the Revised Code. Tax returns otherwise delivered to the Tax Administrator during normal business hours shall be deemed filed on the date received.

(e) The Tax Administrator is authorized to provide by regulation that the return of an employer, showing the amount of tax deducted by the employer from the qualifying wages of an employee, and paid by him or them to the Tax Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages. This filing exemption is limited to nonresident taxpayers whose sole income is qualifying wages for which the tax imposed by this chapter has been withheld and remitted to the City by the employer.

Section 191.1102 Form and Content of Return

The city income tax return shall be filed with the Tax Administrator on a form prescribed by and obtainable upon request from the Tax Administrator or on a generic form in accordance with Section 718.05 of the Revised Code, setting forth:

(a) The aggregate amounts of all qualifying wages and all other taxable income earned and/or received by the taxpayer and gross income from business, profession, or other enterprise or business activity, less allowable expenses incurred in the acquisition of such gross income earned and/or received during the taxable year and subject to the city income tax;

(b) The amount of the tax imposed by this chapter on such qualifying wages, net profits; and all other taxable income;

(c) Such other pertinent statements, schedules, information, returns, copies of federal or state tax returns or any other information as the Tax Administrator may require; and

(d) In accordance with Section 718.051 of the Revised Code and the Rules and Regulations, taxpayers subject to the city income tax on the net profits from a business or profession may file the city income tax return by using the Ohio Business Gateway.

Section 191.1103 Extension of Time for Filing Returns

(a) Except as otherwise provided in division (g) of this section, any taxpayer who has requested an extension for filing a federal income tax return may request an extension for filing the city income tax return for the same taxable year by filing a copy of the request for federal extension with the Tax Administrator in accordance with Section 718.05 of the Revised Code and the Rules and Regulations. Any taxpayer not required to file a federal income tax return may request an extension for filing the city income tax return in accordance with Section 718.05 of the Revised Code and the Rules and Regulations.

(b) Requests for extensions are not automatic and may be denied in accordance with Section 718.05 of the Revised Code.

(c) If granted, request for extensions filed before January 1, 2004, shall extend the due date of the city income tax return for a period not less than the period of the federal extension requested.

(d) For taxable years beginning after 2003, if the request for extension to file the city income tax return is granted, the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

(e) The granting of an extension to file the city income tax return does not extend the last date to pay any city income tax due without penalty or interest in accordance with Sections 191.1501 and 191.1502 of this chapter.

(f) No late filing penalty shall be imposed if the city income tax return is filed on or before the due date as extended.

(g) In accordance with Section 718.051 of the Revised Code and the Rules and Regulations, taxpayers subject to the city income tax on the net profits from a business or profession that have received an extension to file the federal income tax return by using the Ohio Business Gateway will receive an extension to file the city income tax return for the same taxable year provided that, the requirements of Section 718.051 of the Revised Code are met. In accordance with that Section, the extended due date will be the last day of the same month to which the due date for filing the federal return has been extended.

(h) Extensions to file the city income tax return granted through the Ohio Business Gateway do not extend the time to pay any city income tax due without penalty or interest in accordance with Sections 191.1501 and 191.1502 of this chapter.

Section 191.1104 Consolidated Returns

(a) Filing of consolidated returns may be permitted or required in accordance with the Rules and Regulations prescribed by the Tax Administrator. A consolidated return may be filed by any affiliated group of corporations subject to the tax imposed by this chapter if that affiliated group filed for the same tax-

able year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. If an affiliated group of corporations subject to the tax imposed by this chapter is required to file a consolidated return or files a consolidated return in accordance with this Section, the affiliated group of corporations must continue to file consolidated returns including that group of corporations for all subsequent taxable years that the group files a consolidated tax return for federal tax purposes unless, on or before the due date for filing the city income tax return for the taxable year, the affiliated group obtains written permission from the Tax Administrator to file separate returns for that year.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Tax Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, the Tax Administrator shall make such allocation to produce a fair and proper allocation of net profits to the City.

Section 191.1105 Amended Returns

(a) Where necessary an amended return shall be filed in order to report additional income and pay any additional city income tax due, or claim a refund of city income tax overpaid, subject to the requirements, limitations, or both, contained in Sections 191.1701 to 191.1703, 191.1902 and 191.1903. Such amended return shall be on a form prescribed by and obtainable upon request from the Tax Administrator. A taxpayer may not change the method of accounting, filing status or method of apportionment of the net profits after the due date for filing the original city income tax return.

(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's city tax liability, such taxpayer shall make and file an amended city return showing income subject to the city income tax based upon such final determination of federal tax liability, and pay any additional city income tax shown due thereon or make claim for refund of any overpayment.

Section 191.1301 Payment of Tax on Filing of Return

(a) The taxpayer making a city income tax return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 191.1302, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 191.1303, or where an income tax has

been paid to another municipality, credit for the amount so paid in accordance with Section 191.1902, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) Subject to the limitations set forth in Section 191.1702, any taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$.00) shall be assessed, collected or refunded.

Section 191.1302 Collection at Source

(a) In accordance with this Chapter, and the Rules and Regulations, each employer, agent of any employer or other payer within or doing business within the City who employs one or more persons shall deduct when any qualifying wages are earned and/or received by the taxpayer, the amount of city income tax imposed by Section 191.0501 on the gross qualifying wages earned and/or received by the taxpayer and except as otherwise provided in divisions (f) and (g) of this section shall, on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Tax Administrator the amount of city income taxes so deducted from such qualifying wages, subject to the provisions of divisions (c) to (e) of this section. Returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator, and shall be subject to the Rules and Regulations prescribed therefor by the Tax Administrator. Such employer shall be liable for the payment of the city income tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Each employer, agent of any employer or other payer in collecting the city income tax shall be deemed to hold the same, until payment is made by such employer, agent of any employer or other payer to the City, as a trustee for the benefit of the City and any such tax collected by such employer, agent of any employer or other payer from his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer, agent of any employer or other payer. Each employer, agent of any employer and other payer shall be liable for the payment of city income tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(c) Each employer, agent of any employer or other payer who deducts and withholds city income tax of one hundred dollars (\$100.00) or more per month shall pay to the Tax Administrator before the twentieth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer, agent of any employer or other payer exceeds one hundred dollars (\$100.00) in city income taxes withheld.

(d) Payments shall be reported on a form or forms prescribed by and obtainable upon request from the Tax Administrator.

(e) No employer, agent of an employer or other payer shall be required to withhold the city income tax on qualifying wages or other taxable income paid to domestic servants employed by such employer or other payer exclusively in or about such employer or other payer's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(f) (1) Any person who shall employ or contract for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, theatrical performance, or

(2) Any person who, acting as a promoter, booking agent or employer, engages the services of, or arranges the appearance of any entertainer, entertainment act, sports event, band, orchestra, rock group, theatrical performance in the City, and who makes any payment arising from said appearance in the City shall be deemed to be an employer and shall, for purposes of the collection of the city income tax, be required to withhold, report and remit as required by this section to the Tax Administrator the city income tax at the rate provided in Section 191.0501 hereof, on the gross amount so paid to the entertainer, athlete, etc. on completion of the engagement for the services performed in the City. The reports required by this section shall be made and filed on forms prescribed by and obtainable from the Tax Administrator.

(g) Any person, as defined in Section 191.0314, who rents facilities to any entertainer, entertainment act, sport event, promotional booth, special event, band, orchestra, rock group, theatrical performance for use in performing services in the City, and who makes any payment arising from said use of facilities shall be deemed to be an employer and shall, for purposes of the collection of the city income tax, be required to withhold, report and remit as required by this section to the Tax Administrator the city income tax at the rate provided in Section 191.0501 hereof based on the gross amount so paid to the entertainer, athlete, etc. on completion of the engagement for the services performed in the City. The reports required by this section shall be made and filed on forms prescribed by and obtainable from the Tax Administrator.

(h) For taxable years beginning after 2003, no employer or agent of an employer or other payer shall be required to withhold tax with respect to any amount other than qualifying wages. Nothing in this Section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(i) Every employer, agent of an employer or other payer required to withhold and remit the city income tax in accordance with this chapter, shall be directly liable to the City for the payment of such tax, whether or not actually withheld or collected.

(j) For taxable years beginning after 2003, no employer is required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(k) (1) An employee is not relieved from liability for paying the city income tax by the failure of the employer to withhold the tax as required by this Section 191.1302 or the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee concluded with the employer in connection with the failure to remit the tax withheld.

(l) In accordance with Section 718.051 of the Revised Code, the Rules and Regulations of the State Tax Commissioner, this Chapter and the Rules and Regulations, any employer subject to this section 191.1302 may report the amount of city income tax withheld from qualifying wages and remit such amounts by using the Ohio Business Gateway.

Section 191.1303 Declarations of Income Not Collected at Source

Every person who anticipates earning and/or receiving any taxable income which is not subject to Section 191.1302, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 191.0501 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from qualifying wages from which the city income tax will be withheld and remitted to the City in accordance with Section 191.1302, such person need not file a declaration.

Section 191.1304 Filing of Declaration

(a) For taxable years beginning after 2003, the declaration required by Section 191.1303 shall be filed on or before April 15 of each year during the effective period set forth in Section 191.0502 or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.

(b) For taxable years beginning after 2003, for those taxpayers reporting on a fiscal year or period other than a calendar year, the declaration required by Section 191.1303 shall be filed on or before the fifteenth (15th) day of the fourth (4th) month after the beginning of each fiscal year or period.

(c) In accordance with Section 718.051 of the Revised Code, the Rules and Regulations of the State Tax Commissioner, this Chapter, and the Rules and Regulations, any taxpayer subject to the city income tax on the net profits from a business or profession may file declarations of estimated net profits and pay estimated city tax due thereon by using the Ohio Business Gateway.

Section 191.1305 Form of Declaration

(a) The declaration required by Section 191.1303 shall be filed upon forms prescribed by and obtainable from the Tax Administrator, or acceptable generic form, and credit shall be taken for City income tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.1902, credit may be taken for city income tax to be paid to or withheld and remitted to another taxing municipality.

(b) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

Section 191.1306 Payment to Accompany Declaration

(a) For taxpayers who are individuals, the declaration of estimated city income tax required by Section 191.1303, shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of such taxpayer's estimated city income tax for the taxable year, and at least twenty-two and one-half percent (22.5%) of such estimated city income tax shall be paid on or before each of the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

(b) For taxpayers that are not individuals, the declaration of estimated city income tax required by Section 191.1303, shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of such taxpayer's estimated city income tax for the taxable year, and at least twenty-two and one-half percent (22.5%) of such estimated city tax shall be paid on or before each of the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(c) No declaration shall be deemed filed unless accompanied by the required payment of estimated city income tax.

(d) Declarations required to be filed by Section 191.1303 shall be deemed filed when the declaration with required payment are post-marked by the United States Postal Service or the date of receipt recorded by authorized delivery service as defined in Section 5703.056 of the Revised Code. Declarations otherwise delivered with the required payment to the Tax Administrator during normal business hours shall be deemed filed on the date received.

(e) A declaration of estimated city income tax may be amended at any time, in accordance with the Rules and Regulations. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates set forth in this Section.

Section 191.1307 Annual Return

For taxable years beginning after 2003, the annual city income tax return required to be filed after filing such declaration or amended declaration shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year (calendar or fiscal year). Any balance of city income tax remaining due in accordance with Section 191.1301 shall be remitted with the city income tax return.

Section 191.1501 Interest on Unpaid Tax

All city income taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof.

Section 191.1502 Penalties on Unpaid Tax

In addition to interest as provided in Section 191.1501, penalties are imposed on all city income tax remaining unpaid after it becomes due as follows:

(a) For failure to pay city income taxes due other than taxes withheld: one and one-half percent (1-1/2%) of such outstanding tax per month for each month that the tax remains outstanding or fraction thereof;

(b) For failure to file an annual city income tax return by the due date or extended due date: a minimum of twenty-five dollars (\$25.00);

(c) For failure to remit city income taxes withheld or required to be withheld from employees: ten percent (10%) of the outstanding unremitted tax per month or fraction thereof for each month that the unremitted tax remains outstanding; and

(d) In accordance with the Rules and Regulations, the Tax Administrator may impose such other interest and penalty assessment as the Tax Administrator deems necessary for the administration and enforcement of the provisions of this chapter.

Section 191.1503 Exceptions to Penalties

A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a city income tax return has been filed in good faith and the tax paid thereon within the time prescribed by Section 191.1101 provided that the additional tax assessment shall be paid within the time prescribed by the Tax Administrator for payment of such additional tax; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional city income tax assessment resulting from a federal audit, providing an amended city income tax return is filed and the additional city income tax is paid within three months after a final determination of the federal income tax liability.

Section 191.1504 Abatement of Interest and Penalty

Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon a written appeal by the taxpayer upon the refusal of the Tax Administrator to recommend abatement of penalty, interest, or both, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

The Rules and Regulations may authorize the Tax Administrator to abate penalty, interest, or both, for good cause shown in certain circumstances.

Section 191.1505 Violations

No person shall:

(a) Fail, neglect, or refuse to make any return or declaration required by this chapter; or

(b) Knowingly make any incomplete, false, or fraudulent return; or

(c) Willfully fail, neglect, or refuse to pay the tax, penalties or interest imposed by this chapter; or

(d) Fail, neglect, or refuse to withhold city income tax from his employees; or

(e) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers, and federal income tax returns relating to

the income or net profits of a taxpayer; or

(f) Fail to appear before the Tax Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(g) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits or, in the case of a person responsible for maintaining information relating to his employers' income or net profits, such person's employer's income or net profits; or

(h) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator authorized hereby; or

(i) To avoid imposition or collection of city income tax, willfully give to an employer or prospective employer false information as to his true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(j) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total wages paid and city tax withheld, or to knowingly give the Tax Administrator false information; or

(k) Fail to remit or cause to be remitted the city income tax withheld from all qualifying wages of employees to the City as required by Section 191.1302; or

(l) Willfully fail, neglect, or refuse to make any payment of estimated city income tax for any taxable year or part of any taxable year in accordance with Section 191.1306; or

(m) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(n) For purposes of this Section 191.1505, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(o) For purposes of this Section 191.1505, the term "person" shall, in addition to the meaning prescribed in Section 191.0314, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the city income tax returns and making the payments of the city income tax as required by Section 191.1101, 191.1302 and Section 191.1306.

Section 191.1506 Limitation of Prosecution

Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, except that in the case of fraud, failure to file a return, or the omission of twenty-five (25%) or more of the taxable income required to be reported, prosecutions shall be commenced within six (6) years after the commission of the offense.

Section 191.1507 Failure to Procure Tax Forms

The failure of any employer, other payer, taxpayer or person to receive or procure a city income tax return, declaration or other required form shall not excuse such employer, other payer, taxpayer or person from making any information return, or city income tax return or declaration, from filing such return, or from paying the city income tax due.

Section 191.1701 Unpaid Taxes Recoverable as Other Debts

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, as other debts of like amount are recoverable, including, but not limited to, collection by suit. Any suit shall be brought within three (3) years after the city income tax was due or the return was filed, whichever is later. Except in the case of fraud, or omission of twenty-five (25%) or more of taxable income required to be reported, or of failure to file a return, no additional assessment shall be made after three (3) years from the time the city income tax was due or the city income tax return was filed, whichever is later.

Section 191.1702 Refund of Taxes Erroneously Paid

(a) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after the final determination of the federal tax liability, whichever is later.

(b) No interest shall be paid by the City on any refunded overpayment of city income tax if the overpayment is refunded within ninety (90) days after the due date for filing the city income tax return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of city income tax for any taxable year shall be treated as having been paid before the date on which the city income tax return for that taxable year was due, without regard to any extension of time for filing that return. Interest on any overpayment of city income tax shall be paid at the rate of interest prescribed by Sections 718.12 and 5703.47 of the Revised Code.

Section 191.1902 Cleveland Resident Subject to Income Tax in Other Municipality

(a) When a resident is subject to and has paid a municipal income tax in another municipality on the same income taxable under this chapter, regardless of whether such other municipality allows a credit to its non-residents, and the rate of Cleveland's municipal income tax is less than two and one-half percent (2.5%), such resident may claim a credit of the amount of income tax paid to the other municipality, but not in excess of fifty percent (50%) of the tax imposed by this chapter. When a resident is subject to and has paid a municipal income tax in another municipality on the same income taxable under this chapter regardless of whether such other municipality allows a credit to its non-residents and the rate of Cleveland's municipal income tax is two

and one-half percent (2.5%) or more, such resident may claim a credit of the amount of income tax paid to the other municipality, which credit shall not exceed the tax assessed by this chapter on the resident's taxable income subject to tax by another municipality.

(b) In the event a resident is entitled to credit for taxes paid another municipality, such resident is required to file a return on a form in such manner as the Tax Administrator may prescribe.

(c) Assignment of any claim for refund to which a resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of city income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

(d) In the event such resident fails, neglects or refuses to file such return or form as is prescribed by the Tax Administrator, such resident shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(e) A resident owner of a pass-through entity that does not conduct business in the City and that has paid an income tax to another municipality may claim a credit equal to the lesser of (i) the resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to another municipality in the State; or (ii) the resident owner's proportionate share of the amount of city income tax that would be imposed on the pass-through entity if the pass-through entity conducted business in the City.

(f) In no case shall the amount of the credit allowed under division (e) of this Section exceed the tax assessed by this chapter on the resident owner's taxable income subject to tax by another municipality.

(g) The credits provided in Section 718.021 and 718.121 shall be available to residents, if applicable.

(h) Except as otherwise provided in Sections 718.021; 718.121 and 718.14 of the Revised Code, this chapter, and the Rules and Regulations, where a nonresident is subject to the tax imposed by this chapter and is subject to tax on the same taxable income in the municipality where such nonresident resides, no credit against the city income tax levied by this chapter shall be allowed.

Section 191.1903 Claim for Credit

Any claim for credit for taxes paid by a resident to another municipality on the same income taxable under this chapter or claim for or assignment of any refund due to the credit provided for in Section 191.1902, must be filed with the Tax Administrator on a form acceptable to the Tax Administrator within three (3) years from the due date of the city income tax return. If the resident, fails, neglects, or refuses to file such claim for refund or credit within the time prescribed by this section, such failure, neglect, or refusal shall render such credit, claim for refund, or assignment null and void and the resident shall be liable for the full amount of tax

assessed by this chapter, together with interest and penalties.

Section 191.2001 Deposit of Funds

All monies collected by the Tax Administrator under the provisions of this chapter shall be kept in a fund segregated from and not commingled with any other funds from any sources whatsoever.

Section 191.2002 Monthly Report of Undistributed Balance

The Tax Administrator shall prepare and furnish to Cleveland City Council each month a statement containing the following information:

(a) Total undistributed balance from the previous month;

(b) Actual income for the month of the report including a summary of the amount of delinquent taxes, penalties and interest collected for that month;

(c) Disbursements made during the month, identifying to whom and from which collection period.

(d) Undistributed balance and indicate thereon:

(1) Current income in the process of collection for current distribution;

(2) Current income reserved for collection agency expenses;

(3) Funds belonging to nonparticipating municipalities and period of collection of the fund;

(4) Sources of balance of fund, if any.

For the purpose of this section "current income" means income received during the preceding three (3) month period; "current distribution" means quarterly distribution, and "source of funds" means the period of time during which funds were collected.

Section 191.2101 Disbursement of Funds Collected

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the city income tax levied by this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in division (a) hereof shall be deposited in the General Fund for Municipal purposes set forth in Section 191.0101.

Section 191.2301 Receipt and Records of Tax

The Tax Administrator shall collect and receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof, and report all monies so received.

Section 191.2302 Enforcement of Collection

The Tax Administrator shall enforce payment of all income taxes owing to the City, keep accurate records for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration of estimated municipal income tax and make any return, or both, including returns of taxes withheld and show the dates and amounts of payments thereof.

Section 191.2303 Authority to Make and Enforce Regulations

(a) The Tax Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of the Board of

Review, to adopt and promulgate and to enforce and interpret rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(b) Upon the request of a taxpayer or employer subject to this chapter, the Tax Administrator is empowered to issue Administrative Rulings interpreting this chapter and the Rules and Regulations. Those Administrative Rulings shall be binding and effective upon issuance as to the taxpayer or employer requesting the Ruling. Administrative Rulings may be appealed to the Board of Review.

Section 191.2304 Authority to Arrange Installment Payments

(a) The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, not to exceed twelve (12) months, when the taxpayer has proved to the Tax Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

(b) Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand, and the provisions of Sections 191.1701 and 191.1505 shall apply.

Section 191.2305 Authority to Determine Amount of Tax Due

In any case where a taxpayer has failed to file a return or has filed a city income tax return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of city income tax appearing to be due the City from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

Section 191.2306 Investigations

The Tax Administrator, or any authorized agent, representative or employee, is authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or any person subject to, or whom the Tax Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholding due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is directed and required to furnish within fifteen (15) days upon written request by the Administrator, or his duly authorized agent, representative, or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

Section 191.2307 Authority to Compel Production of Records

The Tax Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or

should have been reported or withheld for city income tax purposes or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

Section 191.2308 Refusal to Produce Records

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the city income tax or by any officer, agent or employee of a person subject to the city income tax or required to withhold such tax or the failure of any person to comply with the provisions of this chapter, including this section, or with an order or subpoena of the Tax Administrator is a violation of this chapter punishable in accordance with Section 191.99.

Section 191.2309 Confidential Nature of Information; Disclosure of Returns and Return Information

(a) Any information gained as a result of returns, investigations, hearings or verifications required or authorized by this chapter or Chapter 718 of the Revised Code shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City as authorized by this chapter.

(b) The Tax Administrator may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the State Tax Commissioner.

Section 191.2310 Taxpayer Required to Retain Records

Every taxpayer shall retain all records necessary to compute his city income tax liability for a period of five (5) years from the date his city income tax return is filed or the city income taxes required to be withheld are paid.

Section 191.2311 Authority to Contract for Central Collection Facilities

The Tax Administrator is authorized to enter into an agreement on behalf of the City with any other municipality or village for the purpose of administering the city income tax laws of the other municipality or village as its agent and for the purpose of providing a central collection facility for the collection of the city income tax on behalf of the other municipality or village.

Section 191.2312 Withholding Taxes from Federal Employees

The Tax Administrator is authorized to enter into an agreement on behalf of the City with the United States Secretary of the Treasury for the purpose of withholding city income or employment taxes from the compensation of federal employees whose regular place of federal employment is within the territorial jurisdiction of the City.

Section 191.2501 Board of Review Established

A Board of Review, consisting of the Director of Public Utilities, or a

person or employee in the Department of Public Utilities designated by him, the Director of Law, or an Assistant Director of Law designated by him and a member of Council to be elected by that body, is hereby created and shall be maintained to hear appeals by taxpayers of decisions and Administrative Rulings issued by the Tax Administrator regarding a municipal income tax obligation that is subject to appeal as provided in Section 718.11 of the Revised Code, this chapter or the Rules and Regulations. The Board shall select, each year for a one (1) year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 191.2309 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

Section 191.2502 Board to Approve Regulations and Hear Appeals

All Rules and Regulations and amendments or changes thereto, which are adopted by the Tax Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any Administrative Ruling or decision issued by the Tax Administrator.

Section 191.2503 Right of Appeal

In accordance with Section 718.11 of the Revised Code and Rules and Regulations, any person dissatisfied with any Administrative Ruling or decision of the Tax Administrator that is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such Administrative Ruling or decision by the Tax Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. Such appeal shall be deemed filed when postmarked by the United States Postal Service or the date of receipt recorded by authorized delivery service as defined in Sections 5703.056 of the Revised Code. Appeals otherwise delivered to the Tax Administrator during normal business hours shall be deemed filed on the date received.

In accordance with the procedures set forth in Section 5717.011 of the Revised Code, for matters relating to taxable years beginning on or after January 1, 2004, the taxpayer or Tax Administrator may appeal decisions of the Board of Review to the State Board of Tax Appeals or a court of common pleas as otherwise provided by law.

Section 191.2701 Declaration of Legislative Intent

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect

only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

Section 191.99 Penalty

(a) Whoever violates any of the provisions of Sections 191.1505 or 191.2308 shall be guilty of a misdemeanor of the first degree for each violation. Each violation constitutes a separate offense.

(b) Whoever violates Section 191.2309 shall be guilty of a misdemeanor of the first degree for each such disclosure. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates Section 191.2309 shall be guilty of an offense punishable by immediate dismissal.

Section 2. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976,

Section 191.0101, as amended by Ordinance No. 2699-84, approved by the voters on February 5, 1985;

Sections 191.0302, 191.0303, 191.0305, 191.0306, 191.0307, 191.0308, and 191.0310, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0311, as amended by Ordinance No. 2214-82, passed October 25, 1982,

Section 191.0314, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0318, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.0319 and 191.0320, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0501, as amended by Ordinance No. 116-04, passed February 9, 2004,

Section 191.050101, as amended by Ordinance No. 1835-74, passed November 25, 1974,

Sections 191.0502, 191.0701, 191.0702, 191.0703, and 191.0704 as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0705, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0901, as amended by Ordinance No. 116-04, passed February 9, 2004,

Section 191.1101, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1102, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.1103, 191.1104, 191.1105, and 191.1301, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1302, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Section 191.1303, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1304, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Section 191.1305, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1306, as amended by Ordinance No. 1704-72, passed December 12, 1972,

Section 191.1307, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1501 and 191.1502, as amended by Ordinance No. 229-81, passed March 9, 1981,

Sections 191.1503, 191.1504 and 191.1505, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1506, as amended by Ordinance No. 1670-85, passed September 23, 1985

Sections 191.1507, 191.1701, and 191.1702, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1902, as amended by Ordinance No. 3008-A-83, passed February 23, 1984,

Section 191.1903, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Sections 191.2001 and 191.2002, as amended by Ordinance No. 2027-69, passed June 1, 1970,

Section 191.2101, as amended by Ordinance No. 1437-70, passed September 2, 1970,

Sections 191.2301, 191.2302, 191.2303, 191.2304, 191.2305, 191.2306, 191.2307, and 191.2308, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.2309, as amended by Ordinance No. 485-89, passed March 27, 1989,

Sections 191.2310, and 191.2311, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.2312, as amended by Ordinance No. 480-75, passed March 24, 1975

Sections 191.2501, 191.2502, 191.2503, 191.2701, and 191.99, as enacted by Ordinance No. 2393-66, passed November 28, 1966, are repealed.

Section 3. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 191.030101, 191.030102, 191.030401, 191.030501, 191.031001, 191.031002, 191.031201, 191.031301, 191.031302, 191.031303, 191.031304, 191.031501, 191.031601, 191.031701, 191.031702, 191.031801, and 191.0321 to read as follows:

Section 191.030101 Adjusted Federal Taxable Income

"Adjusted Federal Taxable Income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code adjusted, as set forth in Sections 718.01(A)(1) of the Revised Code.

Section 191.030102 Administrative Rulings

"Administrative Rulings" mean the rulings issued by the Tax Administrator, upon the request of a taxpayer or employer, interpreting this chapter and the Rules and Regulations. Administrative Rulings shall be binding and effective upon issuance as to the taxpayer or employer requesting the ruling.

Section 191.030401 Board of Tax Appeals

"Board of Tax Appeals" means the state board created pursuant to Section 5703.02 of the Revised Code.

Section 191.030501 City

"City" means the City of Cleveland, Ohio.

Section 191.031001 Intangible Income

"Intangible income" means that income specified in Section 718.01(A)(5)

of the Revised Code including any of the following types of income: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards or other income associated with, attributable to or derived from any lottery winnings or other similar games of chance.

Section 191.031002 Internal Revenue Code

"Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

Section 191.031201 Nonresident Owner

"Nonresident owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the city or a corporation that has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the City.

Section 191.031301 Ohio Revised Code

"Ohio Revised Code" means the codified statutes of the State of Ohio, as amended.

Section 191.031302 Other Payer

"Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the qualifying wages of the individual.

Section 191.031303 Owner

"Owner" means an individual, partner, member, or any other person having an ownership interest in an association, pass-through entity, or unincorporated business entity.

Section 191.031304 Pass-Through Entity

"Pass-through entity" means a partnership, limited liability company, S corporation or any other type of entity the income or profits of which are given pass-through treatment under the Internal Revenue Code. "Income from a pass-through entity" includes partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

Section 191.031501 Qualifying Wages

"Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as provided in division (A)(2) of Section 718.03 of the Revised Code. "Qualifying wages" includes compensation attributable to a nonqualified deferred compensation plan or program as defined in section 3121(v)(2)(C) of the Internal

Revenue Code and compensation arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased by the stock option. "Qualifying wages" does not include compensation deferred before January 1, 2004, to the extent that the deferred compensation does not constitute "qualifying wages" when paid or distributed.

Section 191.031601 Resident Owner
"Resident owner" means an individual domiciled in the City who has an interest in an association, pass-through entity or unincorporated business entity.

Section 191.031701 Rules and Regulations

"Rules and Regulations" mean the Rules and Regulations promulgated

by the Tax Administrator and approved by the Board of Review.

Section 191.031702 S Corporation
"S Corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

Section 191.031703 State
"State" means the State of Ohio.

Section 191.031704 Tax Commissioner
"Tax Commissioner" means the Tax Commissioner of the State of Ohio.

Section 191.031801 Taxable Situs
"Taxable Situs" means that portion of a taxpayer's net profits attributable to the City where the taxpayer conducts a business or profession both within and without the City,

determined in accordance with Section 718.02 of the Ohio Revised Code.

Section 191.0321 Unincorporated Business Entity

"Unincorporated Business Entity" means either an "association," "pass-through entity" or "corporation," determined by the treatment afforded such entity for federal income tax purposes.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2210-04.

By Council Member Cimperman.

An ordinance to change to the zoning of properties on the west side of East 62nd Street, south of Grdina Avenue to an RA-2 Townhouse (Map Change No. 2142, Sheet No. 4).

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Use, Area and Height Districts of lands described as follows:

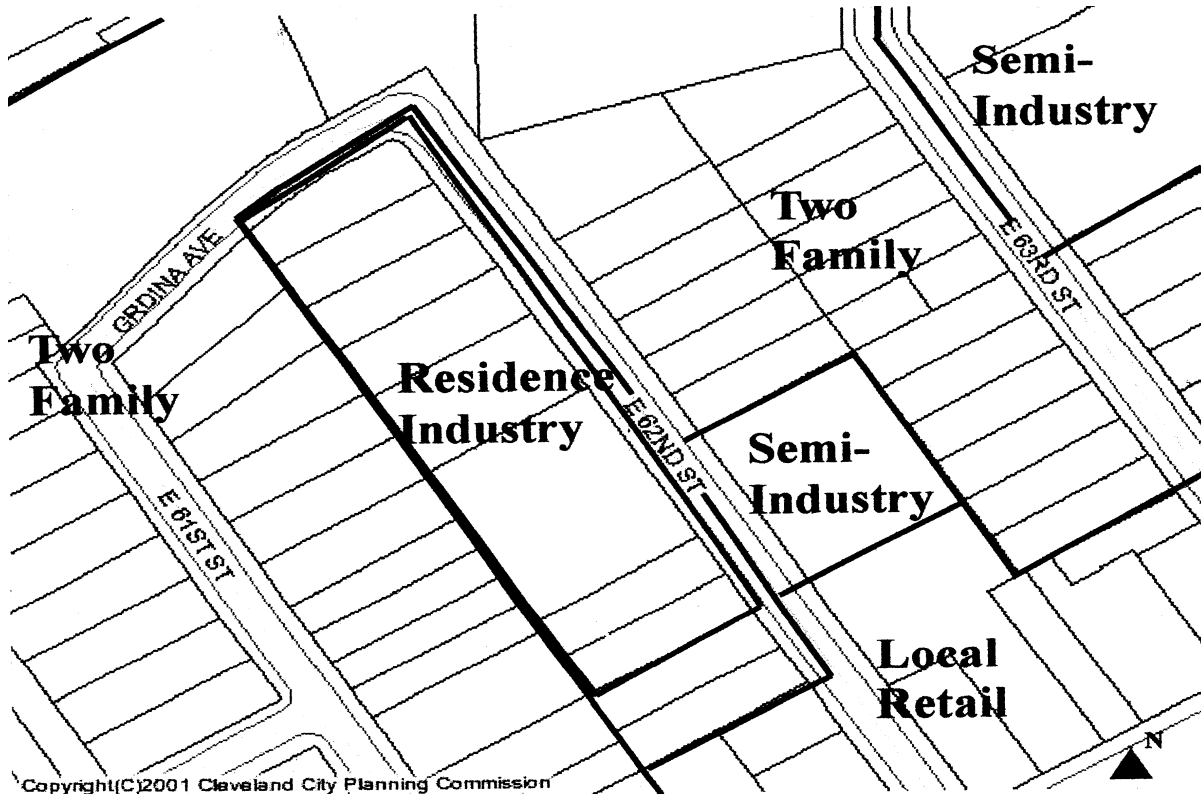
Permanent Parcel Nos. 105-07-067, 105-07-068, 105-07-069, 105-07-070, 105-07-071, 105-07-072, 105-07-073, and 105-07-074, located on East 62nd Street; and

One half the width of the street right-of-way of the portions of East 62nd Street and Grdina Avenue abutting the aforementioned parcels;

and as outlined in red on the attached map are changed to an RA-2 Townhouse District.

Section 2. That the changed designation of lands described in Section 1 shall be identified as Map Change No. 2142, Sheet No. 4, and shall be made upon the Building Zone Maps of the City of Cleveland on file in the office of the Clerk of Council and on file in the office of the City Planning Commission by the appropriate person designated for this purpose by the City Planning Commission.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.



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Passed December 13, 2004.
Effective January 22, 2005.

Ord. No. 2240-04.

By Council Members Britt and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to lease property known as 23860 Miles Road, Unit K, from Corwall Company for a term not to exceed five months, for the public purpose of leasing space for the purpose of occupying garage and office space to store and maintain vehicles for the operation of the Cleveland House of Corrections.

Whereas, the City of Cleveland requires certain space located at 23860 Miles Road, Unit K, Bedford Heights, Ohio, for the public purpose of leasing garage and office space to store and maintain vehicles for the operation of the Cleveland House of Corrections; and

Whereas, Corwall Company has proposed to lease the space to the City of Cleveland; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Health is authorized to lease from Corwall Company certain space more fully described as follows: approximately 4,000 square feet of garage space located at 23860 Miles Avenue, Unit K ("Premises").

Section 2. That the term of the lease shall not exceed five months beginning December 1, 2004.

Section 3. That the rent for the lease shall be a base rate of \$2,446.67 per month, including utilities. The total lease shall not exceed \$12,233.35. The City shall pay a security deposit of one-month rent at \$2,446.67.

Section 4. That the lease may authorize the City to make improvements to the lease premises under terms to be determined by the parties consistent with the public purpose or purposes of leasing space to store goods necessary for the operation of the Cleveland House of Corrections.

Section 5. That the lease may provide for the City's payment of appropriate utility and other operating costs of the leased premises.

Section 6. That the costs of the lease shall be paid from Fund No. 01-500302-636000, Request No. 149715.

Section 7. That the lease shall be prepared by the Director of Law and shall contain such authorized terms and conditions as are required to protect the interests of the City.

Section 8. That the Director of Public Health and the Director of Law, and other appropriate City officials, are authorized to execute such other documents and certificates, and take such other actions as may be necessary or appropriate to effect the lease authorized by this ordinance.

Section 9. That this ordinance is declared to be an emergency mea-

sure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2241-04.

By Council Members Cimperman, Britt, and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to lease certain property to Neighborhood Health Care Inc. dba Neighborhood Family Practice, for a term of five years to provide medical services and clinical physician services at the Tremont Health Center.

Whereas, the City of Cleveland owns certain property known as the Tremont Health Center; and

Whereas, Neighborhood Health Care Inc. dba Neighborhood Family Practice has proposed to lease the property from the City; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Health is authorized to lease to Neighborhood Health Care Inc. dba Neighborhood Family Practice ("Lessees"), approximately 6,016.25 total square feet of certain office and meeting space located on the first floor, part of the second floor, and the basement of the Tremont Health Center for the public purpose of providing medical services and clinical physician services for the term of the lease. The medical and clinical physician services, include but are not limited to, comprehensive maternal services, infant and pediatric services, primary adult health care services, mammograms, discount medication, lab tests, and individual and group health education.

Section 2. That the term of the lease authorized by this ordinance shall not exceed five years, beginning January 1, 2005, with option to renew for an additional five-year period.

Section 3. That the property described above shall be leased at fair market value.

Section 4. That the lease may authorize the Lessees to make improvements to the leased premises subject to the approval of appropriate City agencies and officials, and to authorize the Lessees to contribute a share of the operating costs at the facility, including but not limited to utilities, cleaning services, snow removal, pest control, and security.

Section 5. That the lease shall be prepared by the Director of Law and shall contain any terms and conditions as are required to protect the interests of the City.

Section 6. That the Director of Public Health, the Director of Law, and other appropriate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to effect the lease authorized by this ordinance.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2242-04.

By Council Members Cimperman, Britt, and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to lease certain property to the Cleveland Metropolitan Housing Authority, for a term of two years for the purpose of their Community and Supportive Services Program for the Valleyview Homes HOPE VI project.

Whereas, the City of Cleveland owns certain property known as the Tremont Health Center; and

Whereas, the Cleveland Metropolitan Housing Authority has proposed to lease the property from the City; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Health is authorized to lease to Cleveland Metropolitan Housing Authority ("Lessees"), approximately 568.75 square feet of certain office and meeting space on the second floor of the Tremont Health Center for the public purpose of implementing Lessees' Community and Supportive Services Program for the Valleyview Homes HOPE VI project for the term of the lease.

Section 2. That the term of the lease authorized by this ordinance shall not exceed two years, beginning January 1, 2005, with option to renew for an additional two-year period.

Section 3. That the property described above shall be leased at fair market value.

Section 4. That the lease may authorize the Lessees to make improvements to the leased premis-

es subject to the approval of appropriate City agencies and officials, and to authorize the Lessees to contribute a share of the operating costs at the facility, including but not limited to utilities, cleaning services, snow removal, pest control, and security.

Section 5. That the lease shall be prepared by the Director of Law and shall contain any terms and conditions as are required to protect the interests of the City.

Section 6. That the Director of Public Health, the Director of Law, and other appropriate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to effect the lease authorized by this ordinance.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2243-04.

By Council Members Britt and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Solid Waste District for the 2005 Solid Waste Disposal Program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$92,314, and other such funds as they may become available during the grant period, from the Cuyahoga County Solid Waste District, to conduct the 2005 Solid Waste Disposal Program, for the purposes in the award letter and summary and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes in the award letter and summary for the grant.

Section 2. That the award letter and summary for the grant, 2243-04-A made a part as if fully rewritten herein, is approved in all respects.

Section 3. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it

shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2244-04.

By Council Members Britt and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2005 Immunization Action Plan Program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$115,209, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2005 Immunization Action Plan Program, for the purposes in the summary and budget and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes in the summary and budget for the grant.

Section 2. That the summary and budget for the grant, File No. 2244-04-A, made a part as if fully rewritten herein, is approved in all respects.

Section 3. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2245-04.

By Council Members Johnson and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to apply for and accept a grant from the Ohio Department of Education for the 2005 Summer Food Program; authorizing the purchase by requirement contract of breakfasts, lunches and snacks for the Program and for food, food products, beverages, condiments and paper products

needed for a food service operation to be served at Camp George L. Forbes, for the Division of Recreation, Department of Parks, Recreation and Properties; and authorizing the Director to contract with various non-profit organizations for the implementation of the Program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Parks, Recreation and Properties is authorized to apply for and accept a grant in the approximate amount of \$250,000.00, from the Ohio Department of Education, to conduct the 2005 Summer Food Program for the purposes described in the program description; that the Director of Parks, Recreation and Properties is authorized to file all papers and execute all documents necessary to receive the funds under the grant, and that the funds are appropriated for the purposes described in the program description for the grant.

Section 2. That the program description for the grant, File No. 2245-04-A, made a part hereof as if fully rewritten is approved in all respects.

Section 3. That the Director of Parks, Recreation and Properties is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of three months (June, July and August, 2005) for the breakfast, lunch and snack program to be served at nineteen City recreation centers and various non-profit agencies and other agencies or recreation facilities as determined by the Director, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Recreation, Department of Parks, Recreation and Properties. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control shall determine.

Section 4. The cost of the contract or contracts shall be charged against the proper appropriation account, and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 5. That provided the agencies meet the eligibility requirements of the Ohio Department of Education, the Director of Parks, Recreation and Properties is authorized to make one or more written contracts with the following agencies and any additional agencies as determined by the Director for implementation of the 2005 Summer Food Program:

Broken Pieces Fellowship Church
Emile deSauze
R.G. Jones
Westtown Community Center
2nd Calvary Baptist Church

Section 6. That the cost of the contract or contracts authorized shall be paid from the fund or funds to which are credited the proceeds of the grant accepted by this ordinance.

Section 7. That the Director of Parks, Recreation and Properties is authorized to make one or more written requirement contracts under with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of various natural foods, food products, beverages, condiments and paper products, to be served as part of the meal program at Camp George L. Forbes, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Recreation, Department of Parks, Recreation and Properties. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control shall determine.

Section 8. The cost of the contract or contracts shall be charged against the proper appropriation account and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 9. That, notwithstanding the provisions of Section 181.24 of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, bidders for the contract or contracts authorized by this ordinance shall be required to submit a bid bond in the amount of five percent of the amount of the bid, as required by United States Treasury Circular 570.

Section 10. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2246-04.

By Council Members Johnson and Jackson (by departmental request).

An emergency ordinance to amend the agreement with Neighborhood Leadership Institute, entered into under Ordinance No. 331-04, passed May 17, 2004, as amended, relating to implementing educational, recreational, and cultural programs in various school buildings during evening hours.

Whereas, under Ordinance No. 331-04, passed May 17, 2004, + as amended by Ordinance No. 1275-04, passed August 11, 2004, this Council authorized an agreement between the City of Cleveland and Neighborhood Leadership Institute to provide educational, recreational, and cultural programs in various school buildings during evening hours; and

Whereas, additional services are desired; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the agreement between the City of Cleveland and Neighborhood Leadership Institute, in the amount of \$214,411, entered into under Ordinance No. 331-04, passed May 17, 2004, as amended by Ordinance No. 1275-04, passed August 11, 2004, is amended to increase the amount of the contract by \$29,298.00, for a total of \$243,709, payable from Fund No. 01-700401-638000, Request No. 136861.

Section 2. That the amendment shall be prepared by the Director of Law and shall contain any necessary provisions that the director deems necessary to protect and benefit the public interest.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2248-04.

By Council Members Brady, Gordon, and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into contract with The Kemper Company to provide economic development assistance to partially finance improvements to the property located at 10307 Detroit Avenue, and all other associated costs necessary to redevelop the property.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to enter into contract with The Kemper Company to provide economic development assistance to partially finance improvements to the property located at 10307 Detroit Avenue, and all other associated costs necessary to redevelop the property.

Section 2. That the terms of the loan shall be according to the terms set forth in the Summary contained in File No. 2248-04-A. The terms and conditions described in the executive summary as presented to the Finance Committee of this Council shall be contained in the contract authorized by this ordinance and shall not be changed without further legislative authority.

Section 3. That the costs of the contract shall not exceed One Hundred Fifty Thousand Dollars (\$150,000), and shall be paid from Fund No. 12 SF 954, which funds are appropriated for this purpose, Request No. 103631.

Section 4. That the Director of Economic Development is authorized to accept the collateral as set forth in the file referenced above in order to secure repayment of the loan. Any loan agreement, security instrument, or other document shall be prepared and approved by the Director of Law.

Section 5. That the Director of Economic Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 12 SF 958.

Section 6. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and the fees are appropriated to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. The fees shall be deposited to and expended from Fund No. 17 SF 006, Loan Fees Fund.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2249-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Cleveland Municipal Court, to enter into contract with the Cuyahoga County Public Defender Commission for legal services necessary to defend indigents charged with violation of ordinances of the City of Cleveland provided such violation may result in incarceration, for the Cleveland Municipal Court for a period of one year, with one option to renew for an additional one-year period.

Whereas, in *Argersinger v. Hamilton* and *Scott v. Illinois*, the United States Supreme Court held that no indigent criminal defendant may be sentenced to a term of imprisonment unless he has been afforded the

right to assistance of appointed counsel in his defense; and

Whereas, the City of Cleveland, through the Cleveland Municipal Court, is obligated to provide an indigent defendant appointed counsel in order to permit the imposition of a sentence including a term of imprisonment; and

Whereas, under Section 120.14 of the Revised Code, a county commission which has organized a county public defender commission may contract with any municipal corporation within the County served by the county public defender to provide legal representation on behalf of the municipal corporation; and

Whereas, it is the recommendation of the Cleveland Municipal Court, the district of which encompasses Bratenahl and the City of Cleveland, that indigent defense should be provided by the Cuyahoga County Public Defender Commission; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Finance, on behalf of the Cleveland Municipal Court, is authorized to enter into contract with the Cuyahoga County Public Defender Commission for legal services necessary to defend indigents charged with violation of ordinances of the City of Cleveland, provided the violation may result in incarceration, for a period of one year beginning January 1, 2005, at an estimated cost of \$1,400,000, with one option to renew for an additional one-year period, payable from the fund or funds appropriated for this purpose in budget year 2005, Request No. 150414.

Section 2. That two percent (2%) of any payment received by the City and/or Cleveland Municipal Court from the financing of defense counsel for indigent persons shall be utilized by participants in a court exchange program between Cleveland Municipal Court and the Cleveland Municipal School District.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2250-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Cleveland Municipal Court to enter into contracts with Court Community Service for pro-

fessional services necessary to place criminal defendants in community service, and for placement in the Cleveland Work Crew Program, both as referred by the Court, each for a period of one year, with a one year option to renew, for the Cleveland Municipal Court.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Finance, on behalf of the Cleveland Municipal Court, is authorized to enter into contract with Court Community Service for professional services necessary to arrange community service for persons the Court refers for a period of one year, commencing January 1, 2005, with one (1) option, exercisable by the Director of Finance, to renew for an additional one-year term, and cancelable on thirty days' written notice by the director. The cost of the contract shall not exceed \$207,000, and if the option is exercised, the cost for the optional year shall not exceed \$214,000.

Section 2. That the Director of Finance, on behalf of the Cleveland Municipal Court, is authorized to enter into contract with Court Community Service for professional services necessary to arrange community service for persons the Court refers in the Cleveland Work Crew Program for a period of one year, commencing January 1, 2005, with one (1) option, exercisable by the Director of Finance, to renew for an additional one-year term, and cancelable on thirty days' written notice by the director. The cost of the contract shall not exceed \$119,500.00, and if the option is exercised, the cost for the optional year shall not exceed \$123,500.00.

Section 3. The cost of the contracts shall be paid from Fund No. 01-011501-632000, Request Nos. 150415.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2252-04.

By Council Members White, Britt and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to lease space at property located at 9111 and 9119 Miles Avenue from Dominic Festa, or his designee, for a one-year period, with a one-year option to renew, for the public pur-

pose of vehicle-storage parking for the Division of Air Quality, Department of Public Health.

Whereas, the City of Cleveland requires certain space located at 9111 and 9119 Miles Avenue for the public purpose of leasing space for vehicle-storage parking for the Division of Air Quality; and

Whereas, Dominic Festa, or his designee, has proposed to lease the space to the City of Cleveland; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the provisions of Chapter 183 and in accordance with Section 183.01 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Health is authorized to lease from Dominic Festa, or its designee, approximately 9,000 square feet of space located at 9111 and 9119 Miles necessary to store approximately 50 vehicles.

Section 2. That the term of the lease authorized shall be for a one-year period, with one option to renew for an additional one-year period, cancelable on written notice by the Director of Public Health. The renewal shall be in the amount of \$11,000 or less.

Section 3. That the rent for the lease term authorized shall be \$11,000, plus allocable utility, operating and maintenance costs.

Section 4. That the lease may authorize the City to make improvements to the leased premises under terms to be determined by the parties with the public purpose or purpose of leasing approximately 50 parking spaces necessary to store vehicles for the Division of Air Quality.

Section 5. That the cost of the lease shall be paid from Fund No. 13 SF 146, Request No. 149714.

Section 6. That the lease shall be prepared by the Director of Law and shall contain such authorized terms and conditions as are required to protect the interests of the City.

Section 7. That the Director of Public Health and the Director of Law, and other appropriate City officials, are authorized to execute other documents and certificates, and take other actions that may be necessary or appropriate to effect the lease authorized by this ordinance.

Section 8. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2255-04.**By Council Member Jackson (by departmental request).****An emergency ordinance to make temporary appropriations for the current payrolls and other ordinary expenses of the City of Cleveland for the period from January 1, 2005 until the effective date of the annual appropriation ordinance for the fiscal year ending December 31, 2005.**

Whereas, it is desired to postpone the passage of the annual appropriation ordinance until the amended certificate is received, based on the actual balances as the same may be determined by the Director of Finance and the County Budget Commission; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That to provide for the current payrolls, sinking fund and other ordinary expenses of the City of Cleveland for the period from January 1, 2005, until the effective date of the annual appropriation ordinance for the fiscal year ending December 31, 2005, there is appropriated for the period from January 1, 2005 until the effective date of the Annual Appropriation Ordinance the sum of Five Hundred Twelve Million Five Hundred Sixty-Seven Thousand and Six Hundred Thirty Three Dollars (\$512,567,633) out of taxes due the City of Cleveland and any other revenues accrued or occurring during the period of time and the funds are appropriated as follows:

GENERAL FUND

LEGISLATIVE BRANCH		
Council and Clerk of Council		\$ 2,231,684
I Personnel and Related Expenses	\$ 1,710,516	
II Other Expenses	\$ 521,168	
TOTAL LEGISLATIVE BRANCH		\$ 2,231,684
JUDICIAL BRANCH		
Judicial Division		\$ 7,181,365
I Personnel and Related Expenses	\$ 5,134,493	
II Other Expenses	\$ 2,046,872	
Housing Division		\$ 788,103
I Personnel and Related Expenses	\$ 730,833	
II Other Expenses	\$ 57,270	
Clerks Division		\$ 3,008,673
I Personnel and Related Expenses	\$ 2,239,731	
II Other Expenses	\$ 768,942	
TOTAL JUDICIAL BRANCH		\$ 10,978,141
EXECUTIVE BRANCH		
Office of the Mayor		\$ 703,012
I Personnel and Related Expenses	\$ 588,230	
II Other Expenses	\$ 114,782	
DEPARTMENT OF PUBLIC SAFETY		
Public Safety Administration		\$ 793,702
I Personnel and Related Expenses	\$ 659,726	
II Other Expenses	\$ 133,976	
Division of Police		\$ 48,372,988
I Personnel and Related Expenses	\$43,710,329	
II Other Expenses	\$ 4,662,659	
Division of Fire		\$ 22,882,646
I Personnel and Related Expenses	\$21,612,040	
II Other Expenses	\$ 1,270,606	
Emergency Medical Services		\$ 6,191,554
I Personnel and Related Expenses	\$ 5,470,035	
II Other Expenses	\$ 721,519	
Division of Dog Pound		\$ 262,803
I Personnel and Related Expenses	\$ 201,341	
II Other Expenses	\$ 61,462	
TOTAL DEPARTMENT OF PUBLIC SAFETY		\$ 78,503,693
Community Relations Board		\$ 293,150
I Personnel and Related Expenses	\$ 254,653	
II Other Expenses	\$ 38,497	

Department of Consumer Affairs		\$	92,626
I Personnel and Related Expenses	\$	65,067	
II Other Expenses	\$	27,559	
DEPARTMENT OF PUBLIC SERVICE			
Public Service Administration		\$	147,228
I Personnel and Related Expenses	\$	141,125	
II Other Expenses	\$	6,103	
Division of Architecture		\$	195,994
I Personnel and Related Expenses	\$	180,674	
II Other Expenses	\$	15,320	
Waste Collection and Disposal		\$	8,303,148
I Personnel and Related Expenses	\$	3,898,762	
II Other Expenses	\$	4,404,386	
Engineering and Construction		\$	1,401,302
I Personnel and Related Expenses	\$	1,244,619	
II Other Expenses	\$	156,683	
Division of Traffic Engineering		\$	1,432,960
I Personnel and Related Expenses	\$	886,253	
II Other Expenses	\$	546,707	
TOTAL DEPARTMENT OF PUBLIC SERVICE		\$	11,480,632
DEPARTMENT OF PARKS, RECREATION & PROPERTIES			
Parks, Recreation and Properties Admin.		\$	240,443
I Personnel and Related Expenses	\$	177,034	
II Other Expenses	\$	63,409	
Research, Planning and Development		\$	248,644
I Personnel and Related Expenses	\$	214,204	
II Other Expenses	\$	34,440	
Division of Recreation		\$	4,402,453
I Personnel and Related Expenses	\$	2,533,943	
II Other Expenses	\$	1,868,510	
Parking Facilities - On Street		\$	383,080
I Personnel and Related Expenses	\$	364,710	
II Other Expenses	\$	18,370	
Division of Property Management		\$	3,224,722
I Personnel and Related Expenses	\$	1,919,494	
II Other Expenses	\$	1,305,228	
Park Maintenance and Properties		\$	5,795,453
I Personnel and Related Expenses	\$	2,734,652	
II Other Expenses	\$	3,060,801	
TOTAL DEPARTMENT OF PARKS, RECREATION & PROPERTIES		\$	14,294,795
DEPARTMENT OF COMMUNITY DEVELOPMENT			
Division of Administrative Services		\$	822,111
I Personnel and Related Expenses	\$	717,111	
II Other Expenses	\$	105,000	
Director's Office		\$	192,273
I Personnel and Related Expenses	\$	192,273	
II Other Expenses	\$	-	
Division of Neighborhood Development		\$	938,157
I Personnel and Related Expenses	\$	738,157	
II Other Expenses	\$	200,000	
Division of Neighborhood Services		\$	387,128
I Personnel and Related Expenses	\$	387,128	
TOTAL COMMUNITY DEVELOPMENT		\$	2,339,669

DEPARTMENT OF BUILDING AND HOUSING		
Director's Office		\$ 730,229
I Personnel and Related Expenses	\$ 539,087	
II Other Expenses	\$ 191,142	
Division of Code Enforcement		\$ 2,252,103
I Personnel and Related Expenses	\$ 2,163,520	
II Other Expenses	\$ 88,583	
Division of Construction Permitting		\$ 441,487
I Personnel and Related Expenses	\$ 432,807	
II Other Expenses	\$ 8,680	
TOTAL DEPARTMENT OF BUILDING AND HOUSING		<u>\$ 3,423,819</u>
Landmarks Commission		\$ 47,997
I Personnel and Related Expenses	\$ 45,082	
II Other Expenses	\$ 2,915	
Board of Building Standards & Appeals		\$ 30,980
I Personnel and Related Expenses	\$ 26,264	
II Other Expenses	\$ 4,716	
Board of Zoning Appeals		\$ 62,268
I Personnel and Related Expenses	\$ 55,830	
II Other Expenses	\$ 6,438	
Economic Development		\$ 321,827
I Personnel and Related Expenses	\$ 297,146	
II Other Expenses	\$ 24,681	
Office of Equal Opportunity		\$ 242,973
I Personnel and Related Expenses	\$ 218,840	
II Other Expenses	\$ 24,133	
City Planning Commission		\$ 450,739
I Personnel and Related Expenses	\$ 418,347	
II Other Expenses	\$ 32,392	
DEPARTMENT OF PUBLIC HEALTH		
Health Administration		\$ 243,175
I Personnel and Related Expenses	\$ 204,434	
II Other Expenses	\$ 38,741	
Division of Corrections		\$ 2,414,271
I Personnel and Related Expenses	\$ 1,610,540	
II Other Expenses	\$ 803,731	
Division of Health		\$ 1,143,380
I Personnel and Related Expenses	\$ 724,316	
II Other Expenses	\$ 419,064	
Division of the Environment		\$ 411,258
I Personnel and Related Expenses	\$ 291,508	
II Other Expenses	\$ 119,750	
Division of Air Quality		\$ 343,821
I Personnel and Related Expenses	\$ 33,628	
II Other Expenses	\$ 310,193	
TOTAL DEPARTMENT OF PUBLIC HEALTH		<u>\$ 4,555,905</u>
Department of Aging		\$ 150,854
I Personnel and Related Expenses	\$ 120,753	
II Other Expenses	\$ 30,101	

DEPARTMENT OF FINANCE		
Finance Administration		\$ 309,541
I Personnel and Related Expenses	\$ 288,150	
II Other Expenses	\$ 21,391	
Division of Accounts		\$ 569,783
I Personnel and Related Expenses	\$ 309,934	
II Other Expenses	\$ 259,849	
Division of Assessments & Licenses		\$ 454,669
I Personnel and Related Expenses	\$ 373,632	
II Other Expenses	\$ 81,037	
Division of Treasury		\$ 212,622
I Personnel and Related Expenses	\$ 187,414	
II Other Expenses	\$ 25,208	
Division of Purchases and Supplies		\$ 179,721
I Personnel and Related Expenses	\$ 132,164	
II Other Expenses	\$ 47,557	
Bureau of Internal Audit		\$ 268,100
I Personnel and Related Expenses	\$ 156,267	
II Other Expenses	\$ 111,833	
Financial Reporting & Control		\$ 394,405
I Personnel and Related Expenses	\$ 311,043	
II Other Expenses	\$ 83,362	
Information Systems Services		\$ 1,007,431
I Personnel and Related Expenses	\$ 582,790	
II Other Expenses	\$ 424,641	
Information Tech and Planning		\$ 81,036
I Personnel and Related Expenses	\$ 77,946	
II Other Expenses	\$ 3,090	
TOTAL DEPARTMENT OF FINANCE		<u>\$ 3,477,308</u>
Office of Budget & Management		\$ 175,398
I Personnel and Related Expenses	\$ 166,305	
II Other Expenses	\$ 9,094	
Law		\$ 3,163,852
I Personnel and Related Expenses	\$ 1,709,185	
II Other Expenses	\$ 1,454,667	
Office of Personnel		\$ 737,826
I Personnel and Related Expenses	\$ 359,154	
II Other Expenses	\$ 378,672	
Civil Service Commission		\$ 231,453
I Personnel and Related Expenses	\$ 165,701	
II Other Expenses	\$ 65,752	
Non-Departmental		
Other Administrative		\$ 10,316,249
II Other Expenses	\$10,316,249	
Transfers to Other Funds		\$ 16,735,660
II Other Expenses	\$16,735,660	
Total Nondepartmental		<u>\$ 27,051,909</u>
TOTAL EXECUTIVE BRANCH		<u>\$151,832,686</u>
TOTAL GENERAL FUND		<u>\$165,042,511</u>

SPECIAL REVENUE FUND

Restricted Income Tax		\$ 32,000,000
I Capital	\$ 9,500,000	
II Debt Service	\$22,500,000	
Street Construction, Maintenance & Repair		\$ 10,494,081
I Personnel and Related Expenses	\$ 4,702,460	
II Other Expenses	\$ 5,791,621	
Schools Recreation & Cultural Activities Fund		\$ 2,000,000
II Other Expenses	\$ 2,000,000	
TOTAL SPECIAL REVENUE FUNDS		\$ 44,494,081

INTERNAL SERVICE FUND

ISS - Telecommunications		\$ 4,971,658
I Personnel and Related Expenses	\$ 280,675	
II Other Expenses	\$ 4,690,983	
Motor Vehicle Maintenance		\$ 5,361,489
I Personnel and Related Expenses	\$ 1,741,181	
II Other Expenses	\$ 3,620,308	
Printing and Reproduction		\$ 511,083
I Personnel and Related Expenses	\$ 216,874	
II Other Expenses	\$ 294,209	
City Storeroom		\$ 376,044
I Personnel and Related Expenses	\$ 24,217	
II Other Expenses	\$ 351,827	
TOTAL INTERNAL SERVICE FUNDS		\$ 11,220,274

ENTERPRISE FUNDS

Department of Public Utilities		
Utilities Administration		\$ 581,193
I Personnel and Related Expenses	\$ 371,791	
II Other Expenses	\$ 209,402	
Radio		\$ 1,952,638
I Personnel and Related Expenses	\$ 41,729	
II Other Expenses	\$ 1,910,909	
Division of Fiscal Control		\$ 806,096
I Personnel and Related Expenses	\$ 747,038	
II Other Expenses	\$ 59,058	
Division of Water		\$108,053,840
I Personnel and Related Expenses	\$21,419,630	
II Other Expenses	\$86,634,210	
Division of Water Pollution Control		\$ 11,689,560
I Personnel and Related Expenses	\$ 2,911,386	
II Other Expenses	\$ 8,778,174	
Division of Cleveland Public Power		\$ 79,314,550
I Personnel and Related Expenses	\$ 8,059,270	
II Other Expenses	\$71,255,280	
TOTAL PUBLIC UTILITIES		\$202,397,877
DEPARTMENT OF PORT CONTROL		
Airports - Operations		\$ 57,654,464
I Personnel and Related Expenses	\$ 6,634,538	
II Other Expenses	\$51,019,926	
TOTAL DEPARTMENT OF PORT CONTROL		\$ 57,654,464

DEPARTMENT OF PARKS, RECREATION & PROPERTIES		
Division of Cemeteries		\$ 728,686
I Personnel and Related Expenses	\$ 506,893	
II Other Expenses	\$ 221,793	
Golf Courses Fund		\$ 1,213,856
I Personnel and Related Expenses	\$ 426,747	
II Other Expenses	\$ 787,109	
Parking Facilities - Off Street		\$ 4,125,684
I Personnel and Related Expenses	\$ 428,029	
II Other Expenses	\$ 3,697,655	
Convention Center		\$ 2,232,816
I Personnel and Related Expenses	\$ 1,073,399	
II Other Expenses	\$ 1,159,417	
West Side Market		\$ 478,301
I Personnel and Related Expenses	\$ 183,876	
II Other Expenses	\$ 294,425	
Stadium		\$ 9,663,846
II Other Expenses	\$ 9,663,846	
Property Management - East Side Market		\$ 26,716
I Personnel and Related Expenses	\$ 17,538	
II Other Expenses	\$ 9,178	
TOTAL DEPARTMENT OF PARKS, RECREATION & PROPERTIES		<u>\$ 18,469,905</u>
TOTAL ENTERPRISE FUNDS		<u>\$278,522,246</u>
AGENCY FUND		
Central Collection Agency		\$ 3,026,087
I Personnel and Related Expenses	\$ 1,749,790	
II Other Expenses	\$ 1,276,297	
TOTAL AGENCY FUNDS		<u>\$ 3,026,087</u>
DEBT SERVICE FUNDS		
Sinking Fund Commission		\$ 10,262,434
I Personnel and Related Expenses	\$ 43,141	
II Other Expenses	\$ 219,293	
III Debt Service	\$10,000,000	
TOTAL DEBT SERVICE FUNDS		<u>\$ 10,262,434</u>
TOTAL ALL FUNDS		<u>\$512,567,633</u>

Section 2. That all expenditures and payments made under and pursuant to the ordinance appropriating such sum or sums of money shall be charged against the annual appropriation ordinance for the fiscal year ending December 31, 2005, when such appropriation ordinance shall become effective, and to the various departments and divisions and payment of whose officers and employees and operating expenses such sum or sums of money hereunder shall then have paid out or expended. Provided, however, that no payment shall be made under the authority of this ordinance after the effective date of said Annual Appropriation Ordinance for the fiscal year ending December 31, 2005.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2256-04.
By Council Members White, Johnson, Cimperman, and Jackson.
An emergency ordinance authorizing the Director of Parks, Recreation, and Properties to accept from the YMCA of Greater Cleveland a donation of real property and improvements known as the Miles Ave. Family YMCA in the City's Union Miles neighborhood; and authorizing a donation agreement between the City and the YMCA of Greater Cleveland.

Whereas, the YMCA of Greater Cleveland ("YMCA") has indicated a desire to make a donation of the real property and improvements known as the Miles Ave. Family YMCA, located at 11300 Miles Avenue; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of the Department of Parks, Recreation, and Properties (the "Director") is authorized to accept from the YMCA of Greater Cleveland a donation of real property and improvements known as the Miles Ave. Family YMCA, and located at 11300 Miles Avenue and more fully described as follows:

LEGAL DESCRIPTION
 OF
 PARCEL "A"
 IN THE
 PLAT OF CONSOLIDATION
 OF
 PERMANENT PARCEL NUMBERS
 136-26-001 AND 132
 136-25-010
 CLEVELAND, OHIO

Situated in the City of Cleveland, the County of Cuyahoga and the State of Ohio and known as being all of Sublot No. 43 in the Quigley Estate Subdivision as shown on the plat recorded in Volume 45, Page 10 of Cuyahoga County Map Records of part of Original One Hundred Acre Lot No. 467 and also being additional lands in Original One Hundred Acre Lot No. 467 and being further bounded and described as follows:

Beginning at a drill hole in a stone monument found at an angle point in the centerline of Miles Avenue (70 feet wide), said angle point being South 87° 52' 43" West, 442.01 feet from the intersection of the centerlines of East 114th Street, (50 feet wide) and Miles Avenue;

Thence North 87° 52' 43" East along the centerline of Miles Avenue, 138.67 feet to a point;

Thence South 00° 30' 07" East, 35.01 feet to a 5/8" iron pin set on the southerly right-of-way of Miles Avenue, at the northwesterly corner of land conveyed to Henry and Diane Wilson by deed recorded in Volume 90-6185, Page 21 of Cuyahoga County Records and the principal place of beginning;

Thence South 00° 30' 07" East along the westerly line of land so conveyed and the westerly line of land conveyed to Sabrina M. Bell by deed recorded in Volume 94-12137, Page 8 of Cuyahoga County Records

and the westerly right-of-way of Kepler Court (40 feet wide) and the westerly line of land conveyed to Karen L. Wonack by deed recorded in Volume 94-10261, Page 16 of Cuyahoga County Records and the westerly line of land conveyed to the City of Cleveland Land Reutilization Program by deed recorded in Auditor's File Number 200001130560 of Cuyahoga County Records, 408.27 feet to a 5/8" iron pin set thereon at a northeasterly corner of land conveyed to Calvary Cemetery Association of Cleveland by deed recorded in Volume 3560, Page 226 of Cuyahoga County Records;

Thence South 89° 24' 24" West along a northerly line of land so conveyed, 478.12 feet to a 5/8" iron pin set at an angle point therein;

Thence South 89° 20' 18" West along a northerly line of land so conveyed, 169.75 feet to a 5/8" iron pin set at its intersection with the southerly right-of-way of Charlotte Road (40 feet wide);

Thence along the southeasterly curved right-of-way of Charlotte Road, deflecting to the left, an arc distance of 266.93 feet, said curve having a radius of 170.175 feet and a chord that bears North 44° 24' 11" East 240.39 feet to a 5/8" iron pin set at the southwesterly corner of land conveyed to Dorothy Faynes, Trustee by deed recorded in Volume 87-5965, Page 17 of Cuyahoga County Records;

Thence North 89° 24' 24" East along the southerly line of land so conveyed, 101.68 feet to a 5/8" iron pin set at the southeasterly corner thereof;

Thence North 00° 31' 56" West along the easterly line of land so conveyed, 60.00 feet to a 5/8" iron pin set at the northeasterly corner thereof on a southerly line of land conveyed to New Joshua Baptist Church as Parcel No. 1 by deed recorded in Volume 87-5547, Page 27 of Cuyahoga County Records;

Thence North 89° 24' 24" East along the southerly line of land so conveyed, 8.00 feet to a 5/8" iron pin set at the southeasterly corner thereof at a southerly corner of land conveyed to New Joshua Baptist Church as Parcel No. 3 by deed recorded in Volume 87-5547, Page 27 of Cuyahoga County Records;

Thence North 33° 08' 21" East along an easterly line of land so conveyed, 54.11 feet to a 5/8" iron pin set at a southeasterly corner thereof at a southwesterly corner of land conveyed to Cuddles & Hugs Child Care Center, Inc. by deed recorded in Auditor's File Number 200409030762 of Cuyahoga County Records;

Thence North 89° 24' 24" East along the southerly line of land so conveyed, 115.00 feet to a 5/8" iron pin set at the southeasterly corner thereof;

Thence North 00° 31' 56" West along the easterly line of land so conveyed, 135.00 feet to a 5/8" iron pin set at the northeasterly corner thereof on the southerly right-of-way of said Miles Avenue;

Thence North 89° 24' 24" East along the southerly right-of-way of Miles Avenue, 67.25 feet to a 5/8" iron pin set at an angle point therein;

Thence North 87° 52' 43" East along the southerly right-of-way of Miles Avenue, 138.14 feet to the principal place of beginning and containing 3.3899 acres of land as surveyed and described by Scott J. Casey, P.S. No. 8219 of the Riverstone Company, in December 2003, be the same more or less, but subject to all legal highways.

NOTE: All 5/8" iron pins set are capped "Riverstone Company, Dudley PS 6747, Casey PS 8219".

Section 2. That the Director is authorized to enter into an agreement with the YMCA containing the terms of the donation; the agreement shall be substantially in the form contained in File No. 2256-04-A which provides for the City's assumption of the current Head-Start Lease Agreement. The agreement shall be prepared by the Director of Law and shall contain any additional provisions that will protect and benefit the City of Cleveland.

The Director of Parks, Recreation and Properties and the Union Miles Development Corporation will engage in a cooperative attempt to potentially offer community activities such as educational programs, classes, and meeting room space; and to secure special programs such as Junior NBA and karate through additional resources as available.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2280-04.
By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the procurement by one or more requirement contracts of the purchase or lease of Group I and II color photocopiers for the various divisions of City government, for a period not to exceed five years.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of five years of the necessary items of the purchase or lease of Group I and II color photocopiers, in the approximate amount as procured during the preceding term, to be purchased or procured by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single con-

tract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase or procurement, which purchase or procurement, together with all later purchases or procurements, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 150991)

Section 3. That under Section 108(b) of the Charter, the purchases or procurements authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Finance may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases or procurement, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2281-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more contracts without competitive bidding with Data Compression Technology, Inc. for the purchase and installation of STAX software for records retrieval, for the Division of Taxation, Department of Finance, for a period of one year with two one-year options to renew.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That this Council determines that the within commodities are non-competitive and cannot be secured from any source other than Data Compression Technology, Inc. Therefore the Director of Finance is authorized to make one or more written contracts with Data Compression Technology, Inc. on the basis of its proposal dated December 1, 2004, for the purchase and installation of STAX software for records retrieval, to be purchased by the Commissioner of Purchases and Supplies, for the Division of Taxa-

tion, Department of Finance, for a period of one year with two one-year options to renew.

Section 2. That the cost of the contract or contracts authorized shall be paid from Fund No. 81 SF 001, Request No. 126995.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2282-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more contracts without competitive bidding with Sybase, Inc. for the purchase of MITIS software support and maintenance, for the Division of Taxation, Department of Finance, for a period of one year with two one-year options to renew.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That this Council determines that the within commodities are non-competitive and cannot be secured from any source other than Sybase, Inc. Therefore the Director of Finance is authorized to make one or more written contracts with Sybase, Inc. on the basis of its proposal dated October 20, 2004, for the purchase of MITIS software support and maintenance, to be purchased by the Commissioner of Purchases and Supplies, for the Division of Taxation, Department of Finance, for a period of one year with two one-year options to renew.

Section 2. That the cost of the contract or contracts authorized shall be paid from Fund No. 81 SF 001, Request No. 126994.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2283-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more contracts with W.A.R.N., LLC for professional services necessary to provide support, acquire, maintain, and update a residential and business database,

training, unlimited voice and text calling alerts, language modules, set up or installation for various departments, application set up, call administration functions, and maintenance, for a period of one year, with one one-year options to renew.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Finance is authorized to enter into one or more contracts with W.A.R.N., LLC for professional services necessary to provide support, acquire, maintain and update a residential and business database, training, unlimited voice and text calling alerts, language modules, set up or installation for various departments, application set up, call administration functions, and maintenance for the City's Wide Area Rapid Notification System, on the basis of its proposal dated November 17, 2004, in the total sum of \$100,000, for a period of one year, with one one-year options to renew, for the Department of Finance. The contracts or contracts shall be paid from Fund No. 01-999800-638000, Request No. 141861.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2284-04.

By Council Member Jackson (by departmental request).

An emergency ordinance to amend the title and Section 1 and Section 2 of Ordinance No. 908-04, passed June 7, 2004, relating to the City's internet, intranet, and web services; and to supplement the ordinance by adding new Sections 1a and 1b.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the title and Section 1 and Section 2 of Ordinance No. 908-04, passed June 7, 2004, are amended to read as follows:

An emergency ordinance authorizing the Director of Finance to employ one or more consultants for the City's internet, intranet, and web services, including training and software maintenance, for a period of two years with three one-year options to renew.

Section 1. That the Director of Finance is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary

for the City's internet, provision of internet, intranet, and web hosting services, including related services necessary to host, manage, and support the City's website, to provide web hosting services, application design, development, implementation and support, software maintenance, web content editing services and webmaster, user training, and related web support services.

The selection of the consultant or consultants for the services shall be made by the Board of Control on the nomination of the Director of Finance from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Finance for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Finance, and certified by the Director of Finance. The contract or contracts shall be prepared by the Director of Law and shall be for a period of two years, with three one-year options to renew for an additional one-year period, and cancelable on thirty days written notice by the director. That under Section 108(b) of the Charter, the purchase of services authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Finance may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the consultants selected through that cooperative process.

Section 2. That the cost of the contract or contracts shall be paid from Fund No. 01-151101-632000, Request Nos. 141817 and 181862.

Section 2. That the title and Section 1 and Section 2 of Ordinance No. 908-04, passed June 7, 2004, are repealed.

Section 3. That Ordinance No. 908-04, passed June 7, 2004, is supplemented by adding new Sections 1a and 1b to read as follows:

Section 1a. That the Clerk of Council is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the City of Cleveland in order to provide professional services necessary for Cleveland City Council's internet, provision of internet, intranet, and web hosting services, including related services necessary to host, manage, and support the Cleveland City Council's website, to provide web hosting services, application design, development, implementation and support, software maintenance, web content editing services and webmaster, user training, and related web support services. The contract or contracts shall be for a period of two years, with three one-year options to renew for an additional one year period, and cancelable on thirty days written notice by the Clerk of Council. That under Section 108(b) of the Charter, the purchase of services authorized by this ordinance may be made through cooperative agreements using state procedures. The Clerk of Council and the Director of Finance may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the consultants selected through that cooperative process.

Section 1b. That the Director of Finance, on behalf of Cleveland

Municipal Court, is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the City of Cleveland in order to provide professional services necessary for Cleveland Municipal Court's internet, provision of internet, intranet, and web hosting services, including related services necessary to host, manage, and support the Cleveland Municipal Court's website, to provide web hosting services, application design, development, implementation and support, software maintenance, web content editing services and webmaster, user training, and related web support services. The contract or contracts shall be for a period of two years, with three one-year options to renew for an additional one year period, and cancelable on thirty days written notice by the Director of Finance. That under Section 108(b) of the Charter, the purchase of services authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Finance may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the consultants selected through that cooperative process.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2285-04.

By Council Member Jackson (by departmental request).

An emergency ordinance to provide the transfer of Two Hundred Thousand Dollars (\$200,000) within various divisions of the General Fund.

Whereas, in accordance with Section 41 of the Charter, the Mayor has recommended in writing the within transfer; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the sum of Two Hundred Thousand Dollars (\$200,000) be the same and hereby transferred as follows:

	From	To
GENERAL FUND		
NON-DEPARTMENTAL		
County Auditor Deductions		
II Other Expenses	\$ -	\$ 200,000
Other Administrative		
II Other Expenses	\$ 200,000	\$ -
TOTAL NON-DEPARTMENTAL	\$ 200,000	\$ 200,000
TOTAL GENERAL FUND	\$ 200,000	\$ 200,000

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2286-04.

By Council Member Jackson (by departmental request).

An emergency ordinance to make additional appropriations of Three Hundred Thousand Dollars (\$300,000) of the Enterprise Funds.

Whereas, there remains an unappropriated balance in the various funds, the sum of Three Hundred Thousand Dollars (\$300,000) which is available for additional appropriation; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the sum of Two Hundred Thousand Dollars (\$200,000) be the same and hereby transferred as follows:

ENTERPRISE FUNDS	\$	300,000
		300,000
TOTAL ALL FUNDS	\$	300,000

ENTERPRISE FUNDS

DEPARTMENT OF PARKS, RECREATION AND PROPERTIES

Division of Convention Center	\$	300,000		\$ 300,000
I Personnel and Related Expenses	\$	300,000		
TOTAL DEPARTMENT OF PARKS, RECREATION AND PROPERTIES	\$	300,000		\$ 300,000
TOTAL ENTERPRISE FUNDS	\$	300,000		\$ 300,000

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2299-04.

By Council Members Sweeney and Jackson (by departmental request).

An emergency ordinance to amend the title and Section 2 of Ordinance No. 768-04, passed May 17, 2004; and to supplement the ordinance by adding new Section 1a, relating to the purchase of reclaimed or virgin asphalt concrete and to the extend Contract No. 61301 with Kenmore Construction.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the title and Section 2 of Ordinance No. 768-04, passed May 17, 2004, are amended to read as follows:

An emergency ordinance authorizing the purchase by one or more requirement contracts of reclaimed or virgin asphalt concrete, for the Division of Streets, Department of Public Service; and to extend Contract No. 61301 with Kenmore Construction until such time as the Director of Public Service enters into a lower-priced competitively bid contract for the same commodity.

Section 2. That the cost of the contract or contracts and the contract extension shall be charged against the proper appropriation account and the Director of finance shall certify the amount of the initial purchase, which purchase, together

with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract certified by the Director of Finance. The term of the contract extension shall be only until such time as the Director of Public Service enters into a lower-priced competitively bid contract for the same commodity. (RL 139504)

Section 2. That the title and Section 2 of Ordinance No. 768-04, passed May 17, 2004, are repealed.

Section 3. That Ordinance No. 768-04, passed May 17, 2004, is supplemented by adding new Section 1a to read as follows:

Section 1a. That the Director of Public Service is authorized to extend Contract No. 61301 with Kenmore Construction with the same terms and conditions, until such time as the City enters into a new contract for reclaimed or virgin asphalt concrete or December 3, 2005, whichever is earlier, to provide for additional reclaimed or virgin asphalt concrete.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2300-04.

By Council Members Sweeney and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Service to enter into one or more contracts with Cuyahoga County for professional services necessary to perform bridge inspections.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to enter into one or more contracts with Cuyahoga County for professional services necessary to perform bridge inspections on the basis of its proposal in the total sum of \$75,000, for the Department of Public Service. The contracts or contracts shall be paid from funds appropriated in 2005 for this purpose, Request No. 149360.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2302-04.

By Council Members Gordon, Sweeney and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Service to employ one or more professional consultants to perform design engineering services to improve Jennings Road between Spring Road and the Jennings Freeway ramp.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to perform design engineering services to improve Jennings Road between Spring Road and the Jennings Freeway ramp.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Service from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Service for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Service, and certified by the Director of Finance.

Section 2. That the cost of contract or contracts authorized shall be paid from Fund Nos. 20 SF 364, 20 SF 373, 20 SF 380, 20 SF 394, and 20 SF 500, Request No. 149359.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2305-04.

By Council Members Reed and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the Office of Criminal Justice Services through Cuyahoga County Criminal Justice Services Agency for the Byrne Memorial Grant, Cleveland Crisis Intervention Team Training Program; and authorizing the purchase by one or more requirement contracts of equipment needed to implement the grant.

Whereas, this ordinance constitutes an emergency measure provid-

ing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Safety is authorized to apply for and accept a grant in the amount of \$27,676, from the Office of Criminal Justice Services through Cuyahoga County Criminal Justice Services Agency for the Byrne Memorial Grant, Cleveland Crisis Intervention Team Training Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the application for the grant contained in the file described below.

Section 2. That the application for the grant, File No. 2305-04-A, the obligation of the City of Cleveland to provide cash matching funds in the amount of \$9,226 from Fund Nos. 10 SF 025, 10 SF 207, and 10 SF 049, made a part of this ordinance as if fully rewritten, is approved in all respects.

Section 3. That the Director of Public Safety shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 4. That the Director of Public Safety is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements during the grant term of the necessary items of equipment necessary to implement the grant, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Safety. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 5. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 6. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Safety may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors

selected through that cooperative process.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2306-04.

By Council Members Reed and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the Ohio Office of Criminal Justice Services through the County Criminal Justice Services Agency for the Byrne Memorial Grant, 2005 Homeland Security Program; and to enter into contracts necessary to implement the program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Safety is authorized to apply for and accept a grant in the amount of \$107,897, from the Ohio Office of Criminal Justice Services through the County Criminal Justice Services Agency to conduct the Byrne Memorial Grant, 2005 Homeland Security Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the application for the grant contained in the file described below.

Section 2. That the application for the grant, File No. 2306-04-A, made a part of this ordinance as if fully rewritten, including the obligation of the City of Cleveland to provide a cash match in the sum of \$35,966, payable from Fund Nos. 10 SF 025, 10 SF 027, and 10 SF 049, is approved in all respects.

Section 3. That the Director of Public Safety is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the necessary items of equipment and supplies needed to implement the program. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control shall determine. Alternate bids for a period less than the grant term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 4. That the costs of the purchases authorized by this ordinance shall be payable from Fund Nos. 10 SF 025 and 10 SF 049, shall

be charged against the fund or funds which are credited the grant proceeds accepted under this ordinance, and shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director.

Section 5. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Safety may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 6. That the Director of Public Safety shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2310-04.
By Council Members Conwell, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a contract amendment with Triangle Properties Limited Partnership I, ("Developer") to accept a discounted prepayment of the note given by Developers to secure a UDAG loan given to assist with development of the Triangle Building at the intersection of Euclid Avenue and Mayfield Road.

Whereas, pursuant to Ordinance Nos. 2475-86, passed November 10, 1986, Council authorized the Director of Economic Development to accept an Urban Development Action Grant ("UDAG") from the United States Department of Housing and Urban Development ("HUD") and to enter into a contract with the Developer, or its designee, to assist development of the Triangle Building at the intersection of Euclid Avenue and Mayfield Road (the "Contract"); and

Whereas, Developer has requested to prepay the zero-percent interest note given to secure a \$2,240,700 loan ("Note") at its net present value determined by discounting by 12% balloon principal payment due April 1, 2006; and

Whereas, the receipt of said prepayment would allow the Department of Economic Development to secure additional financial assis-

stance funds for reinvestment in various Economic Development projects throughout the City's neighborhoods; and

Whereas, this ordinance constitutes an emergency measure that the same provides for the immediate preservation of the public peace, safety, property and welfare, in that its enactment is a necessary prerequisite to providing immediate assistance to create and preserve job opportunities and advance and promote commercial and economic development in the City of Cleveland; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to accept on behalf of the City, a discounted prepayment of the Note given by Developer in accordance with the Contract; the prepayment shall be paid to the City no later than April 1, 2006, in an amount equal to the net present value of the Note at the time of payment using a discount rate equal to 12%; the prepayment shall be in full satisfaction of the Note, due as a balloon payment of \$2,240,700 on June 1, 2006. That the terms of the discounted repayment and a memorandum from Christel D. Best, Acting Chief of Real Estate and Development, Department of Law, confirming that the City entered into a promissory note with Triangle Properties and that the date of execution on the promissory note controls all matters related to the note and repayment of the note, are contained in File No. 2310-04-A. The terms and conditions regarding the discounted repayment contained in the file as presented to the Finance Committee of this Council shall be contained in the contract authorized by this ordinance and shall not be changed without further legislative authority.

Section 2. That the Director of Economic Development is authorized to amend the Contract, and to file all papers and execute all documents necessary to receive the prepayment.

Section 3. That the Note and Contract amendments authorized by this ordinance shall be prepared by the Director of Law.

Section 4. That the Director of Economic Development is hereby authorized to release any and all collateral taken to secure repayment of the Note, and to execute all documents necessary to release the collateral. Any documents releasing the collateral shall be prepared and approved by the Director of Law.

Section 5. That the Director of Economic Development is hereby authorized to deposit the prepayment into Fund No. 17 SF 006.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2311-04.
By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a grant agreement with the Greater Cleveland Media Development Corporation to administer a program for marketing the City of Cleveland as a venue for film, television, and commercial productions.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to enter into a grant agreement with the Greater Cleveland Media Development Corporation to administer a program for marketing the City of Cleveland as a venue for film, television, and commercial production.

Section 2. That the costs of the grant shall not exceed One Hundred Thousand Dollars (\$100,000.00) and shall be paid from Fund No. 17 SF 652, Request No. 103635.

Section 3. That the Director of Law is authorized to prepare the grant agreement and other documents that may be appropriate to complete the transaction.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2312-04.
By Council Members Cimperman, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a loan and a grant agreement with Realty One Real Living to provide economic development assistance to partially finance the costs of relocating its headquarters to downtown Cleveland, and all other associated costs necessary to redevelop the property.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to enter into a loan with Realty One Real Living to provide economic development assistance to partially finance the costs of relocating its headquarters to downtown Cleveland, and all other associated costs necessary to redevelop the property.

Section 2. That the Director of Economic Development is authorized to enter into a grant agreement with Realty One Real Living to receive grant funds to partially finance the above-described project.

Section 3. That the terms of the loan and grant shall be under the terms contained in File No. 2312-04-A. The terms and conditions described in the executive summary as presented to the Finance Committee of this Council shall be contained in the contract authorized by this ordinance and shall not be changed without further legislative authority.

Section 4. That the costs of the contract shall not exceed a loan amount of \$250,000 and a grant amount of \$250,000. The loan and grant shall be paid from Fund Nos. 17 SF 652 and 10 SF 541, Request No. 103636.

Section 5. That the Director of Economic Development is authorized to accept collateral as set forth in the file referenced above in order to secure repayment of the loan. Any loan agreement, security instrument, or other document shall be prepared and approved by the Director of Law.

Section 6. That the Director of Economic Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 10 SF 541.

Section 7. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and the fees are appropriated to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. The fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 8. That the contract and other appropriate documents needed to complete the transaction authorized by this legislation shall be prepared by the Director of Law.

Section 9. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2313-04.
By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a grant agreement with Cleveland Neighborhood Development Coalition to provide economic development assistance to partially finance the administration of the Cleveland Industrial Retention Initiative.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to enter into a grant agreement with Cleveland Neighborhood Development Coalition to provide economic development assistance to partially finance the administration of the Cleveland Industrial Retention Initiative.

Section 2. That the costs of the grant shall not exceed \$398,000 and, any other ordinance to the contrary notwithstanding, shall be paid from Fund No. 10 SF 501, Request No. 103634.

Section 3. That the Director of Law is authorized to prepare the grant agreement and other documents as may be appropriate to complete the transaction.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2315-04.
By Council Members Cimperman, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a contract with Sterling Telecom Office Building, LLC to provide economic development assistance to partially finance interior office construction, soft costs, personal property acquisition, and other improvement costs associated with interior renovation improvements to the property located at 1255 Euclid Avenue, and all other associated costs necessary to redevelop the property.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to enter into a contract with Sterling Telecom Office Building, LLC to provide economic development assistance to partially finance interior office construction, soft costs, personal property acquisition, and other improvement costs associated with interior renovation improvements to the property located at 1255 Euclid Avenue, and all other associated costs necessary to redevelop the property.

Section 2. That the terms of the loan shall be according to the terms set forth in the Summary contained in File No. 2315-04-A. The terms and conditions described in the executive summary as presented to the Finance Committee of this Council shall be contained in the contract authorized by this ordinance and shall not be changed without further legislative authority.

Section 3. That the loan amount shall not exceed One Hundred Sixty Thousand Dollars (\$160,000), and shall be paid from Fund No. 10 SF 541, which funds are appropriated for this purpose, Request No. 103637.

Section 4. That the Director of Economic Development is authorized to accept the collateral as set forth in the file referenced above in order to secure repayment of the loan. Any loan agreement, security instrument, or other document shall be prepared and approved by the Director of Law.

Section 5. That the Director of Economic Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 10 SF 542.

Section 6. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and the fees are appropriated to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. The fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 7. That the contract and other appropriate documents needed to complete the transaction authorized by this legislation shall be prepared by the Director of Law.

Section 8. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2316-04.
By Council Member Jackson (by departmental request).

An emergency ordinance appropriating funds credited to Fund Nos. 17 SF 006, 17 SF 033, 10 SF 502, 10 SF 553, and 10 SF 554 to pay charges on bonded indebtedness for economic and community development purposes.

Whereas, to create and preserve jobs and employment opportunities and to improve housing for individuals and families, the City determined in Ordinance No. 1306-04, passed August 11, 2004, to issue revenue bonds to provide for industrial, commercial, distribution and research facilities and residential housing, including providing money to make loans to others for such purposes; and

Whereas, on November 10, 2004, the City issued \$19,280,000 Taxable Economic and Community Development Revenue Bonds, Series 2004 (Core City Fund bonds) for the purposes set forth in Ordinance No. 1306-04; and

Whereas, Section 7 of Ordinance No. 1306-04 states that the Core City Fund bonds shall be payable solely from Net Project Revenues and Non-tax Revenues; and

Whereas, Net Project Revenues and any interest on Net Project Revenues will be placed into Core City II E.D. Repayment Fund No. 10 SF 553, and Core City II C.D. Repayments, Fund No. 10 SF 554 and will be available to pay charges on bonded indebtedness of the Core City Fund bonds, and UDAG Repayments contained in Fund No. 17 SF 006, UDAG Commingled Interest contained in Fund No. 17 SF 033, and NDIF Repayments contained in Fund No. 10 SF 502 constitute Non-tax Revenues and are available to pay charges on bonded indebtedness on the Core City Fund bonds;

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of

a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the funds credited to Fund No. 10 SF 553 and 10 SF 554 are appropriated to provide funds for the payment of debt charges on the Core City Fund bonds and, to the extent not needed to pay such debt charges, are appropriated for other economic development programs.

Section 2. That notwithstanding any ordinance to the contrary, the funds credited to Fund Nos. 10 SF 502, 17 SF 006, and 17 SF 033 are appropriated to provide funds for the payment of debt service charges on the Core City Fund bonds and, to the extent not needed to pay such debt charges, are appropriated for other economic development programs.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.

Effective December 17, 2004.

Ord. No. 2317-04.
By Council Members White and Jackson (by departmental request).
An emergency ordinance to amend Sections 665.03, 665.04, and 665.05 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to fair housing.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 665.03, as amended by Ordinance No. 162-A-2000, passed December 4, 2000,

Section 665.04, as amended by Ordinance No. 1081-01, passed June 19, 2001, and

Section 665.05, as amended by Ordinance No. 162-A-2000, passed December 4, 2000,

is amended to read as follows:

Section 665.03 Unlawful Discriminatory Housing Practices

It shall be an unlawful discriminatory housing practice for any person to:

(a) refuse to sell, transfer, assign, rent, lease, sublease, finance, or negotiate after the making of a bona fide offer, or otherwise deny or make unavailable, because of membership in a protected class, a property to any person;

(b) represent to any person, because of membership in a protected class, that a property is not available for sale, rental, inspection, purchase, transfer, assignment, lease or sublease when, in fact, it is available;

(c) discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, if such

person's business includes engaging in residential real estate-related transactions, because of race, color, religion, sex, sexual orientation, national origin, age, disability, ethnic group, Vietnam-era or disabled veteran status, familial status, marital status or ancestry. As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

A. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

B. secured by residential real estate.

(2) The selling, brokering or appraising of real property; and

(3) for the purposes of this section, a person is engaging in residential real estate-related transactions if:

A. he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

B. he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

C. he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families; or

D. he has, within the preceding twelve months, participated as principal in three or more transactions involving the making or purchasing of loans or providing other financial assistance or appraising of real property.

(d) discriminate against any person in the terms or conditions of selling, renting, transferring, assigning, brokering, leasing or subleasing any property, or in furnishing facilities, services or privileges in connection with the ownership, occupancy or use of any property because of membership in a protected class or because of the racial composition or presence of any other protected groups in the area in which the dwelling is located;

(e) discriminate against any person in the provision of property and casualty, including but not limited to, fire, extended coverage, renter's or homeowner's insurance ("insurance") or insurance related services because of membership in a protected class of a current or prospective purchaser, renter, or occupant, or of other residents in the area or community, by any one or more of the following practices:

(1) making insurance or insurance related services unavailable or making them available on different terms or conditions;

(2) refusing to sell or renew or by canceling insurance or an insurance policy;

(3) varying the terms or conditions under which an insurance policy or insurance related services is available;

(4) establishing different qualifications, requirements or standards for making insurance or insurance related services available;

(5) offering different services, facilities or privileges in the provi-

sion of insurance or insurance related services;

(6) discouraging potential applicants from applying for insurance, including not but limited to utilizing different sales and marketing practices;

(7) evaluating, settling, or paying insurance claims;

(f) refuse to consider the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member thereof;

(g) print, publish or circulate, or cause to be printed, published or circulated, any statement or advertisement, or make or cause to be made any written or oral statement, relating to the sale, transfer, assignment, rental, lease, sublease or acquisition of any property or the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of a property, which indicates any preference, limitation, specification or discrimination based upon protected group membership, or an intention to make any such preference, limitation, specification or discrimination;

(h) include in any sale, transfer, rental, lease or sublease of a property any restrictive covenant based on protected group membership, or honor or exercise, or attempt to honor or exercise any such restrictive covenant;

(i) induce or solicit or attempt to induce or solicit including, but not limited to a property listing, sale, rental or transaction by representing that a change has occurred or may occur with respect to the protected class or classes of the area in which the property is located, or induce or solicit or attempt to induce or solicit such listing, sale, or transaction by representing that the actual or anticipated presence of persons of any protected class in the area will or may have results such as:

(1) the lowering of property values;

(2) a change in the composition of the area in which the property is located based upon a protected class or classes;

(3) an increase in criminal or anti-social behavior in the area;

(4) a decline in the quality of the schools serving the area.

(j) coerce, injure, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this section;

(k) discriminate against any person because of protected group status in appraising the value of any property in connection with the sale, brokering or rental or because of the composition of the area based upon protected class or classes;

(l) deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' association or other service association or facility relating to the business of selling or renting housing accommodations or commercial property, or to discriminate against any person in the terms or conditions of such access, membership or participation, on account of membership in a protected class;

(m) refuse to permit, at the expense of a disabled person, reasonable modifications to existing premises occupied or to be occupied by such person, if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, a landlord may — where it is reasonable to do so — condition his or her consent to a modification on a renter's agreement, which can include the establishment of an escrow account, to restore the interior of the premises to the condition that existed prior to the modification, reasonable wear and tear excepted;

(n) refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling including associated public and common use areas;

(o) construct covered multi-family dwellings that do not provide for accessibility and usability for physically disabled persons in compliance with 42 USC #3604(f)(3)(C);

(p) discriminate in any manner against any other person because that person has opposed any unlawful practice defined in this section, or because that person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or hearing under Sections 4112.01 to 4112.07 of the Revised Code;

(q) aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, or obstruct or prevent any person from complying with Sections 4112.01 to 4112.11 of the Revised Code, 42 USC #3601 et seq., or any order issued pursuant thereto, or attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice.

Section 665.04 Exemptions

The provisions of this chapter shall not be construed to:

(a) prohibit a religious or denominational institution, organization, society or association of any non-profit charitable or educational organization that is operated, supervised or controlled by or in connection with a religious organization, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin, nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members;

(b) require any person selling or renting property to modify such property in any way at his or her expense, provided that such person does not refuse to permit reasonable modifications by a disabled person, which are necessary for that person to fully enjoy the premises in which he or she resides, when such modifications are made at the expense of

the disabled person, which permission may be reasonably based on the disabled person's promise, pursuant to division (m) of Section 665.03, to restore the premises to the condition in which it previously existed before granting permission for such modification, nor shall this chapter be construed to relieve any disabled person of any obligation generally imposed on all persons, regardless of disability, in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract, so long as such distinctions are not based on the disability, or on the landlord's refusal to make reasonable modifications in the lease, agreement or contract conditions for the purpose of denying a disabled person equal opportunity to the use and enjoyment of the premises. (ORC 4112.12(K), (N));

(c) prohibit the restriction of a sale or rental of a property on the basis of disability when such a property is authorized, approved, financed or subsidized, in whole or in part, for the benefit of disabled persons by a unit of the local, state or federal government, so long as such restrictions do not discriminate against an otherwise qualified disabled person;

(d) require that a property be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others;

(e) prohibit the application of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a property;

(f) with regard to familial status, apply to properties provided under any federal program provided that HUD has determined that such program or housing is exempt, which determination shall be conclusive, or to housing for older persons;

(g) prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than membership in a protected class.

Section 665.05 Fair Housing Board; Powers; Duties; Responsibilities

(a) There is hereby established a Fair Housing Board which shall consist of five members: one (1) appointed by the Mayor; one (1) appointed by the Council; and three (3) citizen members nominated by the Mayor and confirmed by Council. The member appointed by the Mayor and the member appointed by Council each shall be appointed for a term of three (3) years. Of the citizen members first appointed, one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, and one (1) for a term of three (3) years; thereafter appointments shall be for three (3) years.

(b) The Fair Housing Board shall have the responsibility to administer the provisions of this chapter and to adjudicate complaints alleging violations of any section. The Fair Housing Board shall have and may exercise the following powers

to implement the purposes of this chapter:

(1) to hold adjudicative hearings, make findings of fact, issue orders, enforce such orders and seek judicial and/or administrative relief with respect to any such complaints in accordance with the provisions of this chapter;

(2) to subpoena witnesses, compel their attendance, administer oaths, take sworn testimony and, in connection therewith, to require the production for examination of any documents relating to any matter under investigation or in question before the Fair Housing Board, and enforce such powers by proper petition to any court of competent jurisdiction;

(3) to adopt such rules and regulations as the Fair Housing Board may deem necessary or desirable for the conduct of its business and to carry out the purposes of this chapter;

(4) to do such other acts as are necessary and proper to perform those duties with which the Fair Housing Board is charged under this chapter, including the provision of referral services for the community;

(5) to collect, analyze and study the results of investigations made under this chapter and report to the Mayor and City Council on or before January 31 of each calendar year on the working of this chapter for the purpose of advising on and recommending amendments to this chapter;

(6) to conduct a continuing program of education and community organization throughout the City;

(7) to initiate an investigation without the filing of an official complaint, provided a majority of the Fair Housing Board elects to proceed based upon reasonable cause to believe that violations of this chapter are occurring or have occurred. The Fair Housing Board shall have the same powers following this initiated investigation as it has with an investigation based on the filing of a complaint;

(8) to enter into cooperative agreements with other governmental agencies to effectuate the purposes of this chapter;

(9) to refer persons allegedly aggrieved by unlawful discriminatory housing practices to the Ohio Civil Rights Commission or other governmental or private agencies, as appropriate;

(10) if the Fair Housing Board has reasonable cause to believe that any person or persons are engaged in unlawful discriminatory housing practices as described in Section 665.03, the Fair Housing Board may refer the matter to the Director of Law for commencement of a civil action in a court of competent jurisdiction on behalf of the City. The Director of Law may seek any relief considered necessary to ensure the full enjoyment of the rights granted by this chapter.

Section 2. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 665.03, as amended by Ordinance No. 162-A-2000, passed December 4, 2000,

Section 665.04, as amended by Ordinance No. 1081-01, passed June 19, 2001, and

Section 665.05, as amended by Ordinance No. 162-A-2000, passed December 4, 2000, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2322-04.
By Council Members Britt and Jackson (by departmental request).
An emergency ordinance to amend the title of Ordinance No. 929-04, passed June 7, 2004, relating to a grant from the Alcohol & Drug Addiction Services Board of Cuyahoga County for the Mental Health & Substance Abuse Prevention Program; to supplement the ordinance by adding new Sections 6 and 7; and to renumber existing Sections 6 and 7 to new Sections 8 and 9.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the title of Ordinance No. 929-04, passed June 7, 2004, is amended to read as follows:

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Alcohol & Drug Addiction Services Board of Cuyahoga County for the Mental Health & Substance Abuse Prevention Program; to enter into one or more contracts with various agencies; to enter into one or more requirement contracts to implement the grant; and to enter into an agreement with the Board for the City to receive payments from the Medicaid program.

Section 2. That the title of Ordinance No. 929-04, passed June 7, 2004, is repealed.

Section 3. That Ordinance No. 929-04, passed June 7, 2004, is supplemented by adding new Sections 6 and 7 to read as follows:

Section 6. That the Director of Public Health is authorized to enter into an agreement with the Alcohol & Drug Addiction Services Board of Cuyahoga County for the City to receive payments from the Medicaid programs for alcohol and drug addiction services provided by the City.

Section 7. That the Director of Public Health shall deposit the cash gifts and the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 4. That existing Sections 6 and 7 of Ordinance No. 929-04, passed June 7, 2004, are renumbered to new "Section 8" and "Section 9".

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force

from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2323-04.
By Council Members Lewis and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Personnel and Human Resources to employ one or more professional consultants to administer the City's employee assistance program for a one year period.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Personnel and Human Resources is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to administer the City's employee assistance program for a one year period.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Personnel and Human Resources from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Personnel and Human Resources for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Personnel and Human Resources, and certified by the Director of Finance.

Section 2. That the cost of contract or contracts authorized shall not exceed \$150,000 and shall be paid from funds appropriated for this purpose in budget year 2005, Request No. 107558.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 13, 2004.

Ord. No. 2324-04.
By Council Members Lewis and Jackson (by departmental request).
An emergency ordinance to amend Section 2 of Ordinance No. 414-04, passed March 22, 2004, relating to professional consultants necessary to administer the City's COBRA program and HIPAA compliance.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That Section 2 of Ordinance No. 414-04, passed March 22, 2004 is amended to read as follows:

Section 2. That the cost of contract or contracts authorized shall not exceed \$35,000 and shall be paid from Fund No. 01-040201-632400, Request No. 107542.

Section 2. That Section 2 of Ordinance No. 414-04, passed March 22, 2004, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 13, 2004.

Ord. No. 2325-04.
By Council Members Lewis and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Personnel and Human Resources to employ one or more consultants or one or more firms of consultants to provide professional services for pre-employment background and criminal checks for the Department of Personnel and Human Resources for a one year period.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Personnel and Human Resources is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to administer pre-employment background and criminal records checks; and including but not limited to automated national wanted felon checks; automated motor vehicle license and points checks; automated workers' compensation checks; automated social security traces and automated credit checks for the Department of Personnel and Human Resources for a one year period.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Personnel and Human Resources from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Personnel and Human Resources for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Personnel and Human Resources, and certified by the Director of Finance.

Section 2. That the costs of the contract or contracts authorized shall not exceed \$25,000 and shall be

paid from the fund or funds appropriated for this purpose in budget year 2005, Request No. 107548.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 13, 2004.

Ord. No. 2326-04.

By Council Members Lewis and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Personnel and Human Resources to employ one or more professional consultants to provide workers' compensation and actuarial services for a one year period.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Personnel and Human Resources is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary for a comprehensive workers compensation program, including but not limited to, actuarial and auditing services, disability and account management, preparing reports, scheduling and payment of medical exams, claims settlement, handicap reimbursement, investigations, and filing claims appeals and other duties for a one year period.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Personnel and Human Resources from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Personnel and Human Resources for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Personnel and Human Resources, and certified by the Director of Finance.

Section 2. That the cost of contract or contracts authorized shall not exceed \$250,000 and shall be paid from funds appropriated for this purpose in budget year 2005, Request No. 107559.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force

from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 13, 2004.

Ord. No. 2328-04.

By Council Members Pierce Scott, Johnson, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Mayor to execute a Modification of Deed Restriction for City-owned property located in a portion of Rockefeller Park; and authorizing the Commissioner of Purchases and Supplies to transfer City-owned property no longer needed for public use located in a portion of Rockefeller Park to Glenville Development Corporation to construct Parkside Homes.

Whereas, the City of Cleveland currently holds title, subject to certain deed restrictions, to various parcels of land, now known as Rockefeller Park; and

Whereas, The Cleveland Foundation ("TCF") now holds the reversionary interest in the Rockefeller Park property should the deed restrictions be violated; and

Whereas, one of the deed restrictions requires that the Rockefeller Park property be used exclusively for park purposes and other uses directly related thereto and for no other purpose; and

Whereas, according to the deed restrictions on the Rockefeller Park property, if the Rockefeller Park property is used for any purpose other than park purposes or purposes related to the park, Rockefeller Park will revert back to TCF; and

Whereas, the City of Cleveland wishes to convey a portion of Rockefeller Park to Glenville Development Corporation for the construction of Parkside Homes; and

Whereas, to prevent the Rockefeller Park property from reverting back to TCF due to a violation of the deed restriction, the City must secure the approval of TCF, as representatives of the grantors, to consent to the proposed modification to the deed; and

Whereas, TCF, as representatives of the grantors, has agreed to modify the deed restriction to allow the construction of Parkside Homes; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Mayor is authorized to execute a Modification of Deed Restriction of the following portion of City-owned property known as Rockefeller Park to remove the restriction that the property be used exclusively for park purposes and other uses directly related thereto and for no other purpose:

**Legal Description of:
ROCKEFELLER PARK**

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being all of Sublots 2, 3, 4 and 5 in the C.C. Baldwin's Allotment as recorded in Volume 17 of Maps, Page 7 of Cuyahoga County Records and being further bounded and described as follows:

Beginning at the intersection of the northerly line of Superior Avenue (80 feet wide) with the easterly line of East 101st Street (40 feet wide);

Course 1 — thence along the easterly line of East 101st Street, North 06°-54'-48" West, a distance of 160.01 feet to the southwesterly corner of Sublot 6 in said C.C. Baldwin's Allotment;

Course 2 — thence along the southerly line of said Sublot 6, North 83°-05'-12" East, a distance of 148.27 feet to the easterly line of said C.C. Baldwin's Allotment;

Course 3 — thence along the easterly line of said C.C. Baldwin's Allotment, South 14°-11'-12" East, a distance of 40.33 feet to the northeasterly corner of Sublot 1 in said C.C. Baldwin's Allotment;

Course 4 — thence along the northerly line of said Sublot 1, South 83°-05'-12" West, a distance of 24.60 feet to the northwesterly corner of said Sublot 1;

Course 5 — thence along the westerly line of said Sublot 1, South 06°-54'-08" East, a distance of 120.03 feet to the northerly line of Superior Avenue;

Course 6 — thence along the northerly line of Superior Avenue, South 83°-05'-52" West, a distance of 128.75 feet to the place of beginning and containing 0.4933 acre of land according to a survey by Matthew C. Neff, Ohio Professional Surveyor #7315, of the M Neff Design Group dated May 20, 2002, be the same more or less but subject to all legal highways.

NOTE: Bearings shown hereon are to an assumed meridian and are used to denote angles only.

Section 2. That notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that the property described in Section 1 of this ordinance is no longer needed for public use.

Section 3. That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to sell the above-described property to Glenville Development Corporation (the "Redeveloper") at a price not less than fair market value as determined by the Board of Control, taking into account all restrictions, reversionary interests and similar encumbrances placed by the City of Cleveland in the deed of conveyance.

Section 4. That the proceeds from the sale of the above described property shall be placed into Fund No. 20 SF 471 and will be used to improve the remaining portion of Rockefeller Park, and are appropriated for this purpose.

Section 5. That the conveyance shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain necessary provisions, including restrictive reversionary interests as may be specified by the Board of Control or Director of Law, which shall protect the parties as their respective interests require and shall specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2330-04.
By Council Members Britt and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from ClearCORPS USA for the Lead Poisoning Reduction Program; authorizing the director to accept cash gifts from ICI Paints and Sherwin Williams; and authorizing the director to enter into one or more contracts with various agencies to implement the program.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$124,800, and any other funds that may become available during the grant term from ClearCORPS USA to conduct the Lead Poisoning Reduction Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the summary for the grant contained in the file described below.

Section 2. That the summary for the grant File No. 2330-04-A, ordinance as if fully rewritten, is approved in all respects.

Section 3. That the Director of Public Health is authorized to accept a cash gift in the approximate amount of \$75,000 from ICI Paints, and a cash gift in the approximate amount of \$75,000 from Sherwin Williams for the purpose of implementing the program. The director is authorized to file all papers and execute all documents necessary to receive the funds accepted under this ordinance and, on acceptance of the funds, they shall be appropriated for the purposes described in the file.

Section 4. That the Director of Public Health is authorized to enter into one or more agreements with various entities to implement the program as described in the file.

Section 5. That the Director of Public Health shall deposit the cash gifts and the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 6. That the Director of Public Health shall have the authority to extend the term of the grants during the grant terms.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

Ord. No. 2378-04.
By Council Members Pierce Scott, Conwell and Zone.

An emergency ordinance authorizing the Director of Community Development to enter into a grant agreement with the African Soul Dance Theatre for their 2nd Annual Kwanzaa Cultural Workshop in order to carry out the public purpose of providing educational programming to the residents of the City of Cleveland through the use of Ward 8, 9, 17 Neighborhood Equity Funds.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Community Development is authorized to enter into a grant agreement with the African Soul Dance Theatre for their 2nd Annual Kwanzaa Cultural Workshop in order to carry out the public purpose of providing educational programming to the residents of the City of Cleveland.

Section 2. That the cost of said contract shall be in an amount not to exceed \$15,000 and shall be paid from Fund No. 10 SF 166.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 13, 2004.
Effective December 17, 2004.

COUNCIL COMMITTEE MEETINGS

**Monday, December 13, 2004
9:00 a.m.**

City Planning Committee: Present in City Planning: Cimperman, Rybka, Conwell, Lewis, O'Malley, Pierce Scott, Westbrook.

City Planning and Finance Committees: Present in City Planning: Cimperman, Rybka, Conwell, Lewis, O'Malley, Pierce Scott, Westbrook.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Public Parks, Property and Recreation, City Planning and Finance Committees: Present in Public Parks, Property and Recreation: Johnson, White, Dolan, Rybka, Sweeney. *Authorized Absence:* Jones.

Present in City Planning: Cimperman, Rybka, Conwell, Lewis, O'Malley, Pierce Scott, Westbrook.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Health and Human Services and Finance Committees: Present in Health and Human Services: Britt, Zone, Cintron, Conwell, Gordon, Pierce Scott, Polensek.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Public Service, City Planning and Finance Committees: Present in Public Service: Sweeney, Brady, Cimperman, Johnson, O'Malley, Polensek, White, Zone. *Authorized absence:* Jones.

Present in City Planning: Cimperman, Rybka, Conwell, Lewis, O'Malley, Pierce Scott, Westbrook.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Employment, Affirmative Action and Training and Finance Committees: Present in Employment, Affirmative Action and Training: Lewis, Conwell, Cintron, Coats, Johnson, Reed, Polensek.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Public Safety, Legislation and Finance Committees: Present in Public Safety: Reed, Britt, Brady, Cimperman, Coats, Conwell, White, Zone. *Authorized Absence:* Jones.

Present in Legislation Committee: White, Pierce Scott, Dolan, Gordon, Johnson, Rybka, Westbrook.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Public Utilities, Legislation and Finance Committees: Present in Public Utilities: Coats, O'Malley, Brady, Cintron, Polensek, Sweeney, Westbrook, Zone. *Authorized Absence:* Jones.

Present in Legislation Committee: White, Pierce Scott, Dolan, Gordon, Johnson, Rybka, Westbrook.

Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

Finance Committee: Present in Finance: Jackson, Sweeney, Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

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O—Ordinance; R—Resolution; F—File
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