

# The City Record

Official Publication of the Council of the City of Cleveland



October the Thirtieth, Two Thousand and Thirteen

**Frank G. Jackson**  
Mayor

**Martin J. Sweeney**  
President of Council

**Patricia J. Britt**  
City Clerk, Clerk of Council

**Ward Name**

- 1 Terrell H. Pruitt
- 2 Zachary Reed
- 3 Joe Cimperman
- 4 Kenneth L. Johnson
- 5 Phyllis E. Cleveland
- 6 Mamie J. Mitchell
- 7 TJ Dow
- 8 Jeffrey D. Johnson
- 9 Kevin Conwell
- 10 Eugene R. Miller
- 11 Michael D. Polensek
- 12 Anthony Brancatelli
- 13 Kevin J. Kelley
- 14 Brian J. Cummins
- 15 Matthew Zone
- 16 Jay Westbrook
- 17 Dona Brady
- 18 Martin J. Sweeney
- 19 Martin J. Keane

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# DIRECTORY OF CITY OFFICIALS

## CITY COUNCIL – LEGISLATIVE

President of Council – Martin J. Sweeney

Ward	Name	Residence	
1	Terrell H. Pruitt	16920 Throckley Avenue	44128
2	Zachary Reed	3734 East 149th Street	44120
3	Joe Cimperman	P.O. Box 91688	44101
4	Kenneth L. Johnson	2948 Hampton Road	44120
5	Phyllis E. Cleveland	2369 East 36th Street	44105
6	Mamie J. Mitchell	12701 Shaker Boulevard, #712	44120
7	TJ Dow	7715 Decker Avenue	44103
8	Jeffrey D. Johnson	9024 Parkgate Avenue	44108
9	Kevin Conwell	10647 Ashbury Avenue	44106
10	Eugene R. Miller	13615 Kelso Avenue	44110
11	Michael D. Polensek	17855 Brian Avenue	44119
12	Anthony Brancatelli	6924 Ottawa Road	44105
13	Kevin J. Kelley	5904 Parkridge Avenue	44144
14	Brian J. Cummins	3104 Mapledale Avenue	44109
15	Matthew Zone	1228 West 69th Street	44102
16	Jay Westbrook	1278 West 103rd Street	44102
17	Dona Brady	1272 West Boulevard	44102
18	Martin J. Sweeney	3632 West 133rd Street	44111
19	Martin J. Keane	15907 Colletta Lane	44111

City Clerk, Clerk of Council – Patricia J. Britt, 216 City Hall, 664–2840

### MAYOR – Frank G. Jackson

Ken Silliman, Secretary to the Mayor, Chief of Staff  
 Darnell Brown, Executive Assistant to the Mayor, Chief Operating Officer  
 Valarie J. McCall, Executive Assistant to the Mayor, Chief of Government Affairs  
 Chris Warren, Executive Assistant to the Mayor, Chief of Regional Development  
 Monyka S. Price, Executive Assistant to the Mayor, Chief of Education  
 Maureen Harper, Executive Assistant to the Mayor, Chief of Communications  
 Jenita McGowan, Executive Assistant to the Mayor, Chief of Sustainability  
 Natoya J. Walker Minor, Chief of Public Affairs – Interim Director of Equal Opportunity.

### OFFICE OF CAPITAL PROJECTS – Jomarie Wasik, Director

#### DIVISIONS:

Architecture and Site Development – Robert Vitkas, Chief Architect, Manager  
 Engineering and Construction – Richard J. Switalski, Manager  
 Real Estate – James DeRosa, Commissioner

**DEPT. OF LAW** – Barbara A. Langhenry, Director, \_\_\_\_\_, Chief Counsel,  
 Richard F. Horvath, Chief Corporate Counsel, Thomas J. Kaiser, Chief Trial Counsel,  
 Room 106; John Skrtic, Law Librarian, Room 100

**DEPT. OF FINANCE** – Sharon Dumas, Director, Room 104;

Frank Badalamenti, Manager, Internal Audit

#### DIVISIONS:

Accounts – Lonya Moss Walker, Commissioner, Room 19  
 Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122  
 City Treasury – James Hartley, Interim Treasurer, Room 115  
 Financial Reporting and Control – James Gentile, Controller, Room 18  
 Information Technology and Services – Douglas Divish, Commissioner, 205 W. St. Clair Avenue  
 Purchases and Supplies – Tiffany White, Commissioner, Room 128  
 Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue  
 Taxation – Nassim Lynch, Tax Administrator, 205 W. St. Clair Avenue

**DEPT. OF PUBLIC UTILITIES** – Paul Bender, Director, 1201 Lakeside Avenue

#### DIVISIONS:

Cleveland Public Power – Ivan Henderson, Commissioner  
 Street Lighting Bureau – \_\_\_\_\_, Acting Chief  
 Utilities Fiscal Control – Dennis Nichols, Commissioner  
 Water – Alex Margevicius, Interim Commissioner  
 Water Pollution Control – Rachid Zoghaib, Commissioner

**DEPT. OF PORT CONTROL** – Ricky D. Smith, Director, Cleveland Hopkins International Airport, 5300 Riverside Drive

#### DIVISIONS:

Burke Lakefront Airport – Khalid Bahhur, Commissioner  
 Cleveland Hopkins International Airport – Fred Szabo, Commissioner

**DEPT. OF PUBLIC WORKS** – Michael Cox, Director

#### OFFICES:

Administration – John Laird, Manager  
 Special Events and Marketing – Tangee Johnson, Manager

#### DIVISIONS:

Motor Vehicle Maintenance – Daniel A. Novak, Commissioner  
 Park Maintenance and Properties – Richard L. Silva, Commissioner  
 Parking Facilities – Antionette Thompson, Interim Commissioner  
 Property Management – Tom Nagle, Commissioner  
 Recreation – Samuel Gissentaner, Interim Commissioner  
 Streets – \_\_\_\_\_, Commissioner  
 Traffic Engineering – Robert Mavec, Commissioner  
 Waste Collection and Disposal – Randell T. Scott, Interim Commissioner

**DEPT. OF PUBLIC HEALTH** – Karen Butler, Director, Mural Building, 75 Erieview Plaza

#### DIVISIONS:

Air Quality – George Baker, Commissioner  
 Environment – Pamela Cross, Commissioner, Mural Building, 75 Erieview Plaza  
 Health – Karen K. Butler, Commissioner, Mural Building, 75 Erieview Plaza

**DEPT. OF PUBLIC SAFETY** – Martin Flask, Director, Room 230

#### DIVISIONS:

Dog Pound – John Baird, Chief Dog Warden, 2690 West 7th Street  
 Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.  
 Emergency Medical Service – Nicole Carlton, Acting Commissioner, 1708 South Pointe Drive  
 Fire – Daryl W. McGinnis, Chief, 1645 Superior Avenue  
 Police – Michael C. McGrath, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street

**DEPT. OF COMMUNITY DEVELOPMENT** – Daryl Rush, Director

#### DIVISIONS:

Administrative Services – Jesus Rodriguez, Commissioner  
 Fair Housing and Consumer Affairs Office – John Mahoney, Manager  
 Neighborhood Development – Chris Garland, Commissioner  
 Neighborhood Services – Louise V. Jackson, Commissioner

**DEPT. OF BUILDING AND HOUSING** – Edward W. Rybka, Director, Room 500

#### DIVISIONS:

Code Enforcement – Thomas E. Vanover, Commissioner  
 Construction Permitting – Narid Hussain, Commissioner

**DEPT. OF HUMAN RESOURCES** – Deborah Southerington, Director, Room 121

**DEPT. OF ECONOMIC DEVELOPMENT** – Tracey A. Nichols, Director, Room 210

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

**COMMUNITY RELATIONS BOARD** – Room 11, Blaine Griffin, Director, Mayor Frank

G. Jackson, Chairman Ex-Officio; Rev. Dr. Charles P. Lucas, Jr., Vice-Chairman, Council Member Brian Cummins, Council Member Eugene R. Miller, Jeff Marks, (Board Lawyer), Roosevelt E. Coats, Jenice Contreras, Kathryn Hall, Yasir Hamdallah, Evangeline Hardaway, John O. Horton, Annie Key, Stephanie Morrison-Hrbek, Roland Muhammad, Gia Hoa Ryan, Ted C. Wammes, Peter Whit.

**CIVIL SERVICE COMMISSION** – Room 119, Robert Bennett, President; Michael L. Nelson, Sr., Vice-President; Lucille Ambroz, Secretary; Members: Pastor Gregory Jordan, Michael Flickinger.

**SINKING FUND COMMISSION** – Frank G. Jackson, President; Council President Martin J. Sweeney; Betsy Hruby, Asst. Sec'y; Sharon Dumas, Director.

**BOARD OF ZONING APPEALS** – Room 516, Carol A. Johnson, Chairman; Members: Mary Haas McGraw, Ozell Dobbins, Joan Shaver Washington, Tim Donovan, Jan Huber, Secretary.

**BOARD OF BUILDING STANDARDS AND BUILDING APPEALS** – Room 516, Joseph F. Denk, Chairman; Howard Bradley, Patrick M. Gallagher, Robert Maschke, Halim M. Saab, P.E., Alternate Members – D. Cox, P. Frank, E. P. O'Brien, Richard Pace, J.F. Sullivan.

**BOARD OF REVISION OF ASSESSMENTS** – Law Director Barbara A. Langhenry, President; Finance Director Sharon Dumas, Secretary; Council President Martin J. Sweeney.

**BOARD OF SIDEWALK APPEALS** – Capital Projects Director Jomarie Wasik, Law Director Barbara A. Langhenry; Council Member Eugene R. Miller.

**BOARD OF REVIEW** – (Municipal Income Tax) – Law Director Barbara A. Langhenry; Utilities Director Paul Bender; Council President Martin J. Sweeney.

**CITY PLANNING COMMISSION** – Room 501 – Robert N. Brown, Director; Anthony J. Coyne, Chairman; David H. Bowen, Lillian Kuri, Lawrence A. Lumpkin, Gloria Jean Pinkney, Norman Krumholz, Council Member Phyllis E. Cleveland.

**FAIR HOUSING BOARD** – Charles See, Chair; Lisa Camacho, Daniel Conway, Robert L. Render, Genesis O. Brown.

**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.

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

**MORAL CLAIMS COMMISSION** – Law Director Barbara A. Langhenry; Chairman; Finance Director Sharon Dumas; Council President Martin J. Sweeney; Councilman Kevin Kelley.

**POLICE REVIEW BOARD** – Thomas Jones, Board Chair Person; Vernon Collier, Vermel Whalen, Nancy Cronin, Elvin Vauss.

**CLEVELAND LANDMARKS COMMISSION** – Room 519 – Jennifer Coleman, Chair; Laura M. Bala, Council Member Anthony Brancatelli, Robert N. Brown, Thomas Coffey, Allan Dreyer, William Mason, Giancarlo Calicchia, John Torres, Robert Vitkas, Robert Keiser, Secretary.

**AUDIT COMMITTEE** – Yvette M. Itu, Chairman; Debra Janik, Bracy Lewis, Diane Downing, Donna Sciarappa, Council President Martin J. Sweeney; Law Director Barbara A. Langhenry.

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

### Judge Courtroom

Presiding and Administrative Judge Ronald B. Adrine – Courtroom 15A  
 Judge Charles J. Bauernschmidt – Courtroom 12A  
 Judge Pinkey S. Carr – Courtroom 12B  
 Judge Marilyn B. Cassidy – Courtroom 13A  
 Judge Michelle Denise Earley – Courtroom 12C  
 Judge Emanuella Groves – Courtroom 14B  
 Judge Anita Laster Mays – Courtroom 14C  
 Judge Lauren C. Moore – Courtroom 14A  
 Judge Charles L. Patton, Jr. – Courtroom 13D  
 Judge Raymond L. Pianka (Housing Court Judge) – Courtroom 13B  
 Judge Angela R. Stokes – Courtroom 15C  
 Judge Pauline H. Tarver – Courtroom 13C  
 Judge Joseph J. Zone – Courtroom 14D

Earle B. Turner – Clerk of Courts, Russell R. Brown III – Court Administrator, Gregory A. Sims – Chief Bailiff, Jerome M. Krakowski – Chief Probation Officer, Gregory F. Clifford – Chief Magistrate, Victor Perez – City Prosecutor

# The City Record

71 OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

Vol. 100

WEDNESDAY, OCTOBER 30, 2013

No. 5212

## CITY COUNCIL

MONDAY OCTOBER 28, 2013

The City Record  
Published weekly by the City Clerk,  
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City of Cleveland  
The City Record is available  
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[www.clevelandcitycouncil.org](http://www.clevelandcitycouncil.org)  
Address all communications to  
**PATRICIA J. BRITT**  
City Clerk, Clerk of Council  
216 City Hall

### PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 2010-2013

#### MONDAY — Alternating

9:30 A.M. — **Public Parks, Properties, and Recreation Committee:** K. Johnson, Chair; Conwell, Vice Chair; Brancatelli, Cimperman, Dow, Polensek.

9:30 A.M. — **Health and Human Services Committee:** Cimperman, Chair; J. Johnson, Vice Chair; Conwell, Keane, Kelley, Polensek.

11:00 A.M. — **Public Service Committee:** Miller, Chair; Cummins, Vice Chair; Cleveland, Dow, K. Johnson, Keane, Polensek, Pruitt, Sweeney.

11:00 A.M. — **Legislation Committee:** Mitchell, Chair; K. Johnson, Vice Chair; Brancatelli, Cimperman, Cleveland, Sweeney.

#### MONDAY

2:00 P.M. — **Finance Committee:** Kelley, Chair; Sweeney, Vice Chair; Brady, Brancatelli, Cleveland, Keane, Miller, Mitchell, Pruitt, Westbrook, Zone.

#### TUESDAY

9:30 A.M. — **Community and Economic Development Committee:** Brancatelli, Chair; Dow, Vice Chair; Cimperman, Cummins, J. Johnson, Miller, Pruitt, Westbrook, Zone.

1:30 P.M. — **Employment, Affirmative Action and Training Committee:** Zone, Chair; Pruitt, Vice Chair; Cummins, J. Johnson, K. Johnson, Mitchell, Westbrook.

#### WEDNESDAY — Alternating

10:00 A.M. — **Aviation and Transportation Committee:** Keane, Chair; Pruitt, Vice Chair; Cummins, J. Johnson, K. Johnson, Kelley, Mitchell.

10:00 A.M. — **Public Safety Committee:** Conwell, Chair; Polensek, Vice Chair; Brady, Cleveland, Cummins, Dow, Miller, Mitchell, Zone.

#### WEDNESDAY — Alternating

1:30 P.M. — **Public Utilities Committee:** Pruitt, Chair; Brady, Vice Chair; Conwell, Cummins, Dow, Kelley, Miller, Polensek, Westbrook.

1:30 P.M. — **City Planning Committee:** Cleveland, Chair; Westbrook, Vice Chair; Brady, Conwell, Dow, Keane, Zone.

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

**Rules Committee:** Sweeney, Chair; Cleveland, Keane, Polensek, Pruitt.

**Personnel and Operations Committee:** Westbrook, Chair; Conwell, K. Johnson, Kelley, Mitchell, Sweeney, Zone.

**Mayor's Appointment Committee:** Dow, Chair; Cleveland, Kelley, Miller, Sweeney.

**Sustainability Sub-Committee:** Zone, Chair; Westbrook, Vice Chair; Cummins.

### OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio

Monday, October 28, 2013

The meeting of the Council was called to order with the President of Council, Martin J. Sweeney, in the Chair.

Council Members present: Dona Brady, Anthony Brancatelli, Joe Cimperman, Phyllis E. Cleveland, Kevin Conwell, Brian J. Cummins, Jeffrey D. Johnson, Kenneth L. Johnson, Martin J. Keane, Kevin J. Kelley, Eugene R. Miller, Mamie J. Mitchell, Michael D. Polensek, Terrell H. Pruitt, Zack Reed, Martin J. Sweeney, Jay Westbrook, Matthew Zone.

Also present were: Mayor Frank G. Jackson, Chief of Staff Ken Siliman, Chief Operating Officer Darnell Brown, Chief of Government Affairs Valarie J. McCall, Chief of Regional Development Chris Warren, Chief of Education Monyka S. Price, Chief of Communications Maureen Harper, Chief of Public Affairs Natoya Walker-Minor, and Directors Langhenry, Dumas, Smith, Butler, Flask, Rush, Rybka, Southerington, Nichols, and Brown, Fumich, Ambroz, and Acting Directors Vilkas and Daniely.

Pursuant to Ordinance No. 2926-76, the opening prayer was offered by Reverend Pamela Pinkney, NO FEAR But God Fellowship Assembly, Cleveland, Ohio (Ward 8). Pledge of Allegiance.

#### MOTION

On the motion of Council Member Miller, the reading of the minutes of the last meeting was dispensed with and the journal approved. Seconded by Council Member Cummins.

#### FROM OHIO DIVISION OF LIQUOR CONTROL

##### File No. 1460-13.

RE: #9115311 — Transfer of Ownership Application, D2 D2X D3. 2301 Enterprises, Inc., d.b.a. Old Brooklyn Social Club and Patio, 2301 Broadway Road. (Ward 3). Received.

#### CONDOLENCE RESOLUTION

The rules were suspended and the following Resolution was adopted without objection:

**Res. No. 1482-13**—Daniel Marano.

#### CONGRATULATIONS RESOLUTION

The rules were suspended and the following Resolution was adopted without objection:

**Res. No. 1477-13**—Rev. James P. Quincy, III.

#### RECOGNITION RESOLUTIONS

The rules were suspended and the following Resolutions were adopted without objection:

**Res. No. 1478-13**—Charles R. See.

**Res. No. 1479-13**—Imperial Avenue Eleven — 4th Anniversary.

**Res. No. 1480-13**—Cleveland Culinary Celebration Week/Fabulous Food Show.

#### APPRECIATION RESOLUTION

The rules were suspended and the following Resolution was adopted without objection:

**Res. No. 1481-13**—Elder Paul Carington.

#### FIRST READING EMERGENCY ORDINANCES REFERRED

##### Ord. No. 1463-13.

By Council Members K. Johnson and Kelley (by departmental request).

An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$4,830,000 for the purpose of providing funds to improve municipal cemetery facilities, buildings, structures and grounds and authorizing related matters.

Whereas, this Council desires to issue bonds in an aggregate princi-

pal amount not to exceed Four Million Eight Hundred Thirty Thousand Dollars (\$4,830,000) (the "Series 2013B-3 Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Series 2013B-3 Bonds shall be payable from and secured by income tax revenues of the City remaining after deposits required under the General Bond Ordinance (as defined in Section 2) are made to the escrow agent for the City's general obligation bonds; and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2013B-3 Bonds is at least five years and that the maximum maturity of the Series 2013B-3 Bonds is 30 years, a copy of which is contained in File No. 1463-13-A; and

Whereas, the authorization for issuance of the Series 2013B-3 Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1 hereof that are urgently needed for the benefit of the City, and as a result, this Ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety, and for the usual daily operation of a municipal department; now, therefore,

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

**Section 1. Purpose.** It is deemed necessary to issue the Series 2013B-3 Bonds in an aggregate principal amount not to exceed Four Million Eight Hundred Thirty Thousand Dollars (\$4,830,000) for the purpose of providing funds to improve municipal cemetery facilities, buildings, structures and grounds by constructing, reconstructing, installing, enlarging, renovating, and rehabilitating buildings, structures and grounds, including clearing, grading and excavating land, reconstructing, installing, renovating, and rehabilitating septic system, drainage and sewer facilities, installing access roadways including any necessary bridges and culverts, installing utility lines, laying out and numbering burial plots, constructing and reconstructing retaining walls, gates and fences, acquiring and installing fences, gates, signage, waste receptacles and other fixtures, and planting and landscaping, together with all necessary and incidental appurtenances and the acquisition of any required real estate and interests in real estate, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority, Security and Source of Payment.** The Series 2013B-3 Bonds shall be issued pursuant to the provisions of the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the Charter of the City, and this Ordinance for the purpose stated in

Section 1 hereof. The Series 2013B-3 Bonds shall be payable from and secured by the income tax revenues of the City on a basis subordinate to the security given to the General Obligation Bonds of the City ("General Obligation Bonds") under Ordinance No. 1749-80 passed by the Council on October 8, 1980, as amended by Ordinance No. 1112-83 passed by the Council on May 6, 1983, and Ordinance No. 944-96, passed by the Council on June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"). The debt service on the Series 2013B-3 Bonds shall be payable from income tax collections remaining after depositing with the escrow agent under the General Bond Ordinance the amount required for the payment of debt service on the City's General Obligation Bonds issued and outstanding, from time to time, under the General Bond Ordinance. The Series 2013B-3 Bonds shall be issued and secured under the terms of the Trust Indenture, dated as of April 1, 2008, between the City and U.S. Bank National Association, as trustee (the "Trustee"), as amended by Section 6.1 of the Second Supplemental Trust Indenture, dated as of June 1, 2010, between the City and the Trustee (together, the "Indenture"). The Indenture currently secures five series of Subordinate Lien Income Tax Bonds issued on May 1, 2008 (collectively, the "Series 2008 Bonds"), four series of Subordinate Lien Income Tax Bonds issued on June 23, 2010 (collectively, the "Series 2010 Bonds"), one series of Subordinate Lien Income Tax Bonds issued on November 29, 2012 (the "Series 2012 Bonds") and three series of Subordinate Lien Income Tax Bonds issued on May 30, 2013 (the "Series 2013A Bonds") and permits the issuance of additional bonds, from time to time, subject to certain restrictions. The Series 2008 Bonds, the Series 2010 Bonds, the Series 2012 Bonds, the Series 2013A Bonds, the Series 2013B-3 Bonds and any additional bonds issued under the Indenture are collectively referred to in this Ordinance as the "Bonds."

**Section 3. Pledge and Covenant to Maintain Income Tax.** So long as Bonds are outstanding under the Indenture, the City pledges the municipal income taxes of the City and grants a lien thereon, subordinate to the lien granted in the General Bond Ordinance as security for the General Obligation Bonds of the City issued and outstanding under the General Bond Ordinance, to the full extent required to meet debt charges payable on the Bonds issued and outstanding, from time to time, under the Indenture. The City covenants to appropriate annually sufficient amounts from the income taxes to pay all debt charges on the General Obligation Bonds, the Bonds outstanding under the Indenture, any Parity Obligations and the Unrestricted Income Tax Obligations (each as defined in the Indenture). The City further covenants that so long as any Bonds are outstanding under the Indenture, the City shall not repeal or amend, or suffer the repeal of, any ordinance for the levy or collection of its income taxes in any manner or to such extent that the City would not be able to meet its obligations to the holders of the Bonds.

**Section 4. Terms of the Series 2013B-3 Bonds.** The Series 2013B-3 Bonds shall be issued in fully registered form. The Series 2013B-3 Bonds may be issued in one or more series or sub-series. The Series 2013B-3 Bonds may be delivered only in book-entry form, and if so delivered, shall be registered in the name of the Depository (as defined in the Indenture) or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Indenture and the Fifth Supplement identified in Section 7. The Series 2013B-3 Bonds shall be designated "Cemeteries Improvement Bonds, Series 2013B-3" or may contain such other designation as provided in the Certificate of Award identified below. The Series 2013B-3 Bonds shall be issued in one lot as fully registered Series 2013B-3 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2013B-3 Bonds shall be numbered as determined by the Director of Finance. The Series 2013B-3 Bonds shall be signed by officials of the City in the manner set forth in the Indenture.

The Series 2013B-3 Bonds shall be dated the date of their issuance and delivery or such other date specified in the certificate of award providing for the final terms of the Series 2013B-3 Bonds and the sale of the Series 2013B-3 Bonds in accordance with this Ordinance (the "Certificate of Award"). The Series 2013B-3 Bonds shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the yield (determined in accordance with the arbitrage provisions of the Internal Revenue Code of 1986, as amended) of the Series 2013B-3 Bonds shall not exceed seven per cent (7.00%) per year. Interest on the Series 2013B-3 Bonds shall be payable semi-annually on May 15 and November 15, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2013B-3 Bonds shall mature in the years and principal amounts set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, and (ii) the final maturity date of the Series 2013B-3 Bonds shall be a date no later than thirty (30) years from a date twelve months prior to the first date on which provision for payment of principal is made for the Series 2013B-3 Bonds, as set forth in the Certificate of Award. The Series 2013B-3 Bonds stated to mature in any year may be issued as serial Series 2013B-3 Bonds or as term Series 2013B-3 Bonds payable prior to stated maturity pursuant to sinking fund redemption (the "Term Bonds"). The Director of Finance shall determine in the Certificate of Award whether any of the Series 2013B-3 Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Require-



ments"). If any of the Series 2013B-3 Bonds are issued as Term Bonds, the Term Bonds shall be redeemed pursuant to the Mandatory Sinking Fund Redemption Requirements at a redemption price of 100 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates. The aggregate of the moneys to be deposited with the Trustee for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided in the Indenture and the Fifth Supplement).

The Series 2013B-3 Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in whole multiples of \$5,000, on the redemption dates and at the redemption prices specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City (i) for some or all of the Series 2013B-3 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2013B-3 Bonds calculated in a manner to make the bondholder whole for the loss of the investment or calculated as a percentage in excess of 100% of the principal amount redeemed.

If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond which is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised as provided in the Fifth Supplement.

If and to the extent provided in the Certificate of Award, the Series 2013B-3 Bonds may be secured by a Debt Service Reserve Fund to be held by the Trustee under the Indenture. The principal amount of the Series 2013B-3 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Bonds, subject to compliance with applicable federal tax laws.

**Section 5. Sale of Series 2013B-3 Bonds.** The Series 2013B-3 Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to the purchaser identified in the Certificate of Award (the "Original Purchaser"). The Certificate of Award shall specify the final terms of the Series 2013B-3 Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 12 and the Original Purchaser's offer to purchase the Series 2013B-3 Bonds, including: the principal amount of the Series 2013B-3 Bonds (which shall not exceed the amount stated in Section 1), the purchase price (which shall be not less than 97% of the principal amount plus

accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), terms and conditions under which any Series 2013B-3 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2013B-3 Bonds (if different from those set forth in Section 3) and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Series 2013B-3 Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Series 2013B-3 Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Series 2013B-3 Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Series 2013B-3 Bonds. The Director of Finance is authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2013B-3 Bonds and the Original Purchaser agrees to buy the Series 2013B-3 Bonds on terms consistent with this Ordinance and the Indenture, that are not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Series 2013B-3 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Fifth Supplement, are in the best interest of the City and in compliance with all legal requirements.

**Section 6. Application of Proceeds.** The proceeds from the sale of the Series 2013B-3 Bonds shall be applied as follows:

a. to the payment of any providers of any Credit Support Instruments, the fees and expenses required to be paid by the City to obtain the Credit Support Instrument;

b. to the Trustee, for deposit in the Interest Payment Account in the Debt Service Fund, the amount, if any, received by the City upon delivery of the Series 2013B-3 Bonds as capitalized interest or as accrued interest from their dated date to the date of their delivery to the Original Purchaser;

c. to the Trustee, for deposit in the Debt Service Reserve Fund, any amount identified in the Certificate of Award as required to be deposited in the Debt Service Reserve Fund; and

d. to the Trustee for deposit in the Project Fund, the balance of the proceeds (including, notwithstanding and as an exception to Chapters 177 and 179 of the Codified Ordinances, any original issue premium received from the sale of the Series 2013B-3 Bonds).

**Section 7. Supplemental Indenture.** The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Fifth Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2013B-3 Bonds, redemption of Series 2013B-3 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2013B-3 Bonds, defeasance of the Series 2013B-3 Bonds, and other terms consistent with this Ordinance and the Certificate of Award and approved by the Director of Finance as not substantially adverse to the City. The Fifth Supplement shall be approved as to form by the Director of Law. The determination by the Director of Finance that the provisions of the Fifth Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Fifth Supplement. As appropriate under the Charter, the Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments in addition to the Indenture and Fifth Supplement as may be necessary or appropriate to issue and sell the Series 2013B-3 Bonds and to consummate the transactions authorized by this Ordinance.

**Section 8. Bond Anticipation Notes.** For the purpose of raising money in anticipation of the issuance of the Series 2013B-3 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Four Million Eight Hundred Thirty Thousand Dollars (\$4,830,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award"). The Notes, if sold as fixed rate obligations, shall bear interest at such rate, not exceeding three percent (3.00%) per year, and shall be payable on the date or dates, as shall be determined by the Director of Finance in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award; shall be subject to redemption by the City at any time prior to maturity without penalty, unless the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, that the Notes not be redeemable prior to maturity or that a premium be paid on their prior redemption; shall be designated "Cemeteries Improvement Bond Anticipation Notes" or as otherwise

provided in the Note Certificate of Award; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system). The provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Notes and pursuant to that authority and this Ordinance, the Director of Finance may determine in the Note Certificate of Award, based on the written advice of a financial advisor, that the City's best interests will be served by causing all or a portion of the Notes to be obligations bearing interest at variable rates. If the Director of Finance so determines, then the Director of Finance shall specify in the Note Certificate of Award the method and procedure by which the variable rate of interest to be borne by the variable rate Notes shall be determined; provided that the variable rate Notes shall not bear interest at a rate in excess of Twenty-Five percent (25.00%) per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Notes, and from time to time thereafter so long as the variable rate Notes are outstanding, with providers of Credit Support Instruments (as defined in Section 11) and others as may be determined by the Director of Finance, based on the written advice of a financial advisor, to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender, providing for liquidity or credit support for the payment of the variable rate Notes upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument. The Trustee shall be the authenticating agent, registrar, transfer agent and paying agent for the Notes. The Notes shall be signed by the officials of the City and in the manner set forth in the Indenture. The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold at not less than par and accrued interest to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in the Note Certificate of Award to be executed by the Director of Finance. The proceeds of such sale shall be paid into the proper fund or funds set forth in the Note Certificate of Award and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

**Section 9. Official Statement; Continuing Disclosure.** If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Bonds, as the case may be, and any necessary supplements, and to authorize the use and distribution of each Official

Statement and any supplements. The Director of Finance is authorized to sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in the judgment of the Director of Finance, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 (the "SEC Rule"). The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Notes or the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

**Section 10. Federal Tax Considerations.** (a) **Tax-Exempt Bonds.** The representations and covenants in this subsection (a) apply only to Series 2013B-3 Bonds or Notes sold as obligations to which Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") applies, the interest on which is excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds").

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (i) the Tax-Exempt Bonds will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (B) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (ii) the interest on the Tax-Exempt Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

(b) **Further Actions.** The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2013B-3 Bonds and any Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2013B-3 Bonds and any Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2013B-3 Bonds and any Notes or interest thereon, or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing rebate amounts or payments or penalties or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, which action shall be in writing and signed by the officer, (ii) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the intended tax status of the Series 2013B-3 Bonds and any Notes and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2013B-3 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2013B-3 Bonds and any Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on the Series 2013B-3 Bonds and any Notes and the tax status of the Series 2013B-3 Bonds and any Notes.

**Section 11. Credit Facilities and Ratings.** If the Director of Finance determines it to be in the best interests of the City, based on the written advice of a financial advisor, the Director of Finance may obtain an insurance policy, letter of credit, standby bond purchase agreement or other credit enhancement instrument as further security for the payment when due of the principal of and interest on all or any portion of the Series 2013B-3 Bonds or any Notes (a "Credit

Support Instrument"). The Director of Finance may request a rating on the Series 2013B-3 Bonds or Notes from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a Credit Support Instrument and/or a rating or ratings on the Series 2013B-3 Bonds or Notes. The Director of Finance may enter into one or more agreements for Credit Support Instruments containing terms not materially inconsistent with this Ordinance or the Indenture. The expenditure of the amounts necessary to secure Credit Support Instruments or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Series 2013B-3 Bonds or Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**Section 12. Financial Advisor.** The Director of Finance may obtain the services of one or more financial advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Ordinance to be determined by the Director of Finance. The Director of Finance may rely on the written advice of any financial advisor so retained. Any financial advisor employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the Original Purchasers and any other party interested in the transaction.

**Section 13. Open Meeting Determination.** It is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and any of its committees that resulted in these formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Ohio Revised Code.

**Section 14. Findings and Recitals of Validity.** It is hereby determined, represented and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds and the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Bonds or the Notes. It is further found and determined, and is hereby represented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provisions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

**Section 15. Delivery to County Fiscal Officer.** The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Fiscal Officer of the County of Cuya-

hoga, Ohio and to secure a receipt therefor.

**Section 16. Severability.** Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

**Section 17. Legislative Intent.** All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its Charter and Article XVIII of the Constitution of Ohio.

Nothing in this Ordinance is intended to, and no provision hereof shall be applied in any manner as would, impair the obligation of contract of the City with respect to any outstanding bonds, notes, certificates of indebtedness, other obligations, trust indentures, trust agreements, or other agreements or contracts made or entered into by the City and for which consideration was duly received by the City prior to the passage of this Ordinance.

**Section 18. Emergency Measure.** This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all 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 date allowed by law.

Referred to Directors of Capital Projects, City Planning Commission, Finance, Law; Committees on Public Parks, Properties and Recreation, Finance.

**Ord. No. 1464-13.**

**By Council Members K. Johnson and Kelley (by departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$3,660,000 for the purpose of providing funds to improve municipal parks and recreation facilities and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Three Million Six Hundred Sixty Thousand Dollars (\$3,660,000) (the "Series 2013B-2 Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Series 2013B-2 Bonds shall be payable from and secured by income tax revenues of the City remaining after deposits required under the General Bond Ordinance (as defined in Section 2) are made to the escrow agent for the City's general obligation bonds; and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2013B-2 Bonds is at least five years and that the maximum maturity of the Series 2013B-2 Bonds is 25 years, a copy of which is contained in File No. 1464-13-A; and

Whereas, the authorization for issuance of the Series 2013B-2 Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1 hereof that are urgently needed for the benefit of the City, and as a result, this Ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety, and for the usual daily operation of a municipal department; now, therefore,

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

**Section 1. Purpose.** It is deemed necessary to issue the Series 2013B-2 Bonds in an aggregate principal amount not to exceed Three Million Six Hundred Sixty Thousand Dollars (\$3,660,000) for the purpose of providing funds to improve municipal parks and recreation facilities by constructing, reconstructing, rehabilitating, installing, renovating, enlarging, redeveloping and otherwise improving parks and recreation centers and areas, pools, skating rinks, greenhouses, bicycle paths, playgrounds, playfields, tracks, fields and related buildings, structures, walkways, pavement, plazas, landscaping and facilities, and providing necessary water systems, drainage, lighting, signage, fixtures, furnishings, equipment, safety modifications and site improvements, together with all necessary and incidental appurtenances and the acquisition of any required real estate and interests in real estate and the demolition of any existing buildings, structures, walkways and facilities, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority, Security and Source of Payment.** The Series 2013B-2 Bonds shall be issued pursuant to the provisions of the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the Charter of the City, and this Ordinance for the purpose stated in Section 1 hereof. The Series 2013B-2 Bonds shall be payable from and secured by the income tax revenues of the City on a basis subordinate to the security given to the General Obligation Bonds of the City ("General Obligation Bonds") under Ordinance No. 1749-80 passed by the Council on October 8, 1980, as amended by Ord-



nance No. 1112-83 passed by the Council on May 6, 1983, and Ordinance No. 944-96, passed by the Council on June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"). The debt service on the Series 2013B-2 Bonds shall be payable from income tax collections remaining after depositing with the escrow agent under the General Bond Ordinance the amount required for the payment of debt service on the City's General Obligation Bonds issued and outstanding, from time to time, under the General Bond Ordinance. The Series 2013B-2 Bonds shall be issued and secured under the terms of the Trust Indenture, dated as of April 1, 2008, between the City and U.S. Bank National Association, as trustee (the "Trustee"), as amended by Section 6.1 of the Second Supplemental Trust Indenture, dated as of June 1, 2010, between the City and the Trustee (together, the "Indenture"). The Indenture currently secures five series of Subordinate Lien Income Tax Bonds issued on May 1, 2008 (collectively, the "Series 2008 Bonds"), four series of Subordinate Lien Income Tax Bonds issued on June 23, 2010 (collectively, the "Series 2010 Bonds"), one series of Subordinate Lien Income Tax Bonds issued on November 29, 2012 (the "Series 2012 Bonds") and three series of Subordinate Lien Income Tax Bonds issued on May 30, 2013 (the "Series 2013A Bonds") and permits the issuance of additional bonds, from time to time, subject to certain restrictions. The Series 2008 Bonds, the Series 2010 Bonds, the Series 2012 Bonds, the Series 2013A Bonds, the Series 2013B-2 Bonds and any additional bonds issued under the Indenture are collectively referred to in this Ordinance as the "Bonds."

**Section 3. Pledge and Covenant to Maintain Income Tax.** So long as Bonds are outstanding under the Indenture, the City pledges the municipal income taxes of the City and grants a lien thereon, subordinate to the lien granted in the General Bond Ordinance as security for the General Obligation Bonds of the City issued and outstanding under the General Bond Ordinance, to the full extent required to meet debt charges payable on the Bonds issued and outstanding, from time to time, under the Indenture. The City covenants to appropriate annually sufficient amounts from the income taxes to pay all debt charges on the General Obligation Bonds, the Bonds outstanding under the Indenture, any Parity Obligations and the Unrestricted Income Tax Obligations (each as defined in the Indenture). The City further covenants that so long as any Bonds are outstanding under the Indenture, the City shall not repeal or amend, or suffer the repeal of, any ordinance for the levy or collection of its income taxes in any manner or to such extent that the City would not be able to meet its obligations to the holders of the Bonds.

**Section 4. Terms of the Series 2013B-2 Bonds.** The Series 2013B-2 Bonds shall be issued in fully registered form. The Series 2013B-2 Bonds may be issued in one or more series or sub-series. The Series 2013B-2 Bonds may be delivered only in book-entry form, and if so delivered, shall be registered

in the name of the Depository (as defined in the Indenture) or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Indenture and the Fifth Supplement identified in Section 7. The Series 2013B-2 Bonds shall be designated "Parks and Recreation Facilities Improvement Bonds, Series 2013B-2" or may contain such other designation as provided in the Certificate of Award identified below. The Series 2013B-2 Bonds shall be issued in one lot as fully registered Series 2013B-2 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2013B-2 Bonds shall be numbered as determined by the Director of Finance. The Series 2013B-2 Bonds shall be signed by officials of the City in the manner set forth in the Indenture.

The Series 2013B-2 Bonds shall be dated the date of their issuance and delivery or such other date specified in the certificate of award providing for the final terms of the Series 2013B-2 Bonds and the sale of the Series 2013B-2 Bonds in accordance with this Ordinance (the "Certificate of Award"). The Series 2013B-2 Bonds shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the yield (determined in accordance with the arbitrage provisions of the Internal Revenue Code of 1986, as amended) of the Series 2013B-2 Bonds shall not exceed seven percent (7.00%) per year; provided, however, that if the Series 2013B-2 Bonds are not Tax-Exempt Bonds (as defined below), the yield shall not exceed nine percent (9.00%) per year. Interest on the Series 2013B-2 Bonds shall be payable semi-annually on May 15 and November 15, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2013B-2 Bonds shall mature in the years and principal amounts set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, and (ii) the final maturity date of the Series 2013B-2 Bonds shall be a date no later than twenty-five (25) years from a date twelve months prior to the first date on which provision for payment of principal is made for the Series 2013B-2 Bonds, as set forth in the Certificate of Award. The Series 2013B-2 Bonds stated to mature in any year may be issued as serial Series 2013B-2 Bonds or as term Series 2013B-2 Bonds payable prior to stated maturity pursuant to sinking fund redemption (the "Term Bonds"). The Director of Finance shall determine in the Certificate of Award whether any of the Series 2013B-2 Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements"). If any of the Series 2013B-2 Bonds are issued as Term Bonds, the Term Bonds shall be redeemed pur-

suant to the Mandatory Sinking Fund Redemption Requirements at a redemption price of 100% of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates. The aggregate of the moneys to be deposited with the Trustee for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided in the Indenture and the Fifth Supplement).

The Series 2013B-2 Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in whole multiples of \$5,000, on the redemption dates and at the redemption prices specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City (i) for some or all of the Series 2013B-2 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2013B-2 Bonds calculated in a manner to make the bondholder whole for the loss of the investment or calculated as a percentage in excess of 100% of the principal amount redeemed.

If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond which is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised as provided in the Fifth Supplement.

If and to the extent provided in the Certificate of Award, the Series 2013B-2 Bonds may be secured by a Debt Service Reserve Fund to be held by the Trustee under the Indenture. The principal amount of the Series 2013B-2 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Bonds, subject to compliance with applicable federal tax laws.

**Section 5. Sale of Series 2013B-2 Bonds.** The Series 2013B-2 Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to the purchaser identified in the Certificate of Award (the "Original Purchaser"). The Certificate of Award shall specify the final terms of the Series 2013B-2 Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 12 and the Original Purchaser's offer to purchase the Series 2013B-2 Bonds, including: the principal amount of the Series 2013B-2 Bonds (which shall not exceed the amount stated in Section 1), the purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal



installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), terms and conditions under which any Series 2013B-2 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2013B-2 Bonds (if different from those set forth in Section 3) and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Series 2013B-2 Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Series 2013B-2 Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Series 2013B-2 Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Series 2013B-2 Bonds. The Director of Finance is authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2013B-2 Bonds and the Original Purchaser agrees to buy the Series 2013B-2 Bonds on terms consistent with this Ordinance and the Indenture, that are not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Series 2013B-2 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Fifth Supplement, are in the best interest of the City and in compliance with all legal requirements.

**Section 6. Application of Proceeds.** The proceeds from the sale of the Series 2013B-2 Bonds shall be applied as follows:

- a. to the payment of any providers of any Credit Support Instruments, the fees and expenses required to be paid by the City to obtain the Credit Support Instrument;
- b. to the Trustee, for deposit in the Interest Payment Account in the Debt Service Fund, the amount, if any, received by the City upon delivery of the Series 2013B-2 Bonds as capitalized interest or as accrued interest from their dated date to the date of their delivery to the Original Purchaser;
- c. to the Trustee, for deposit in the Debt Service Reserve Fund, in the

amount identified in the Certificate of Award as required to be deposited in the Debt Service Reserve Fund; and

d. to the Trustee for deposit in the Project Fund, the balance of the proceeds (including, notwithstanding and as an exception to Chapters 177 and 179 of the Codified Ordinances, any original issue premium received from the sale of the Series 2013B-2 Bonds).

**Section 7. Supplemental Indenture.** The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Fifth Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2013B-2 Bonds, redemption of Series 2013B-2 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2013B-2 Bonds, defeasance of the Series 2013B-2 Bonds, and other terms consistent with this Ordinance and the Certificate of Award and approved by the Director of Finance as not substantially adverse to the City. The Fifth Supplement shall be approved as to form by the Director of Law. The determination by the Director of Finance that the provisions of the Fifth Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Fifth Supplement. As appropriate under the Charter, the Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments in addition to the Indenture and Fifth Supplement as may be necessary or appropriate to issue and sell the Series 2013B-2 Bonds and to consummate the transactions authorized by this Ordinance.

**Section 8. Bond Anticipation Notes.** For the purpose of raising money in anticipation of the issuance of the Series 2013B-2 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Three Million Six Hundred Sixty Thousand Dollars (\$3,660,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award"). The Notes, if sold as fixed rate obligations, shall bear interest at such rate, not exceeding three percent (3.00%) per year, and shall be payable on the date or dates, as shall be determined by the Director of Finance in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award; shall be subject to redemption by the City at any time prior to maturity without penalty, unless the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, that the Notes not be redeemable prior to maturity or that a premium be paid on their prior redemption; shall be designated "Parks and Recreation Facilities Improvement Bond Anticipation Notes" or as otherwise provided in the Note Certificate of Award; shall be

issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system). The provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Notes and pursuant to that authority and this Ordinance, the Director of Finance may determine in the Note Certificate of Award, based on the written advice of a financial advisor, that the City's best interests will be served by causing all or a portion of the Notes to be obligations bearing interest at variable rates. If the Director of Finance so determines, then the Director of Finance shall specify in the Note Certificate of Award the method and procedure by which the variable rate of interest to be borne by the variable rate Notes shall be determined; provided that the variable rate Notes shall not bear interest at a rate in excess of Twenty-Five percent (25.00%) per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Notes, and from time to time thereafter so long as the variable rate Notes are outstanding, with providers of Credit Support Instruments (as defined in Section 11) and others as may be determined by the Director of Finance, based on the written advice of a financial advisor, to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender, providing for liquidity or credit support for the payment of the variable rate Notes upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument. The Trustee shall be the authenticating agent, registrar, transfer agent and paying agent for the Notes. The Notes shall be signed by the officials of the City and in the manner set forth in the Indenture. The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold at not less than par and accrued interest to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in the Note Certificate of Award to be executed by the Director of Finance. The proceeds of such sale shall be paid into the proper fund or funds set forth in the Note Certificate of Award and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

**Section 9. Official Statement; Continuing Disclosure.** If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Bonds, as the case may be, and any necessary supplements, and to authorize the use and distribution of each Official Statement and any supplements. The Director of Finance is authorized to

sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in the judgment of the Director of Finance, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 (the "SEC Rule"). The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Notes or the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

**Section 10. Federal Tax Considerations.** (a) **Tax-Exempt Bonds.** The representations and covenants in this subsection (a) apply only to Series 2013B-2 Bonds or Notes sold as obligations to which Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") applies, the interest on which is excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds").

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (i) the Tax-Exempt Bonds will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (B) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (ii) the interest on the Tax-Exempt Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (i) it will take or cause to be taken such

actions that may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

(b) **Further Actions.** The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2013B-2 Bonds and any Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2013B-2 Bonds and any Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2013B-2 Bonds and any Notes or interest thereon, or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing rebate amounts or payments or penalties or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, which action shall be in writing and signed by the officer, (ii) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the intended tax status of the Series 2013B-2 Bonds and any Notes and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2013B-2 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2013B-2 Bonds and any Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on the Series 2013B-2 Bonds and any Notes and the tax status of the Series 2013B-2 Bonds and any Notes.

**Section 11. Credit Facilities and Ratings.** If the Director of Finance determines it to be in the best interests of the City, based on the written advice of a financial advisor, the Director of Finance may obtain an insurance policy, letter of credit, standby bond purchase agreement or other credit enhancement instrument as further security for the payment when due of the principal of and interest on all or any portion of the Series 2013B-2 Bonds or any Notes (a "Credit Support Instrument"). The Director of Finance may request a rating on the

Series 2013B-2 Bonds or Notes from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a Credit Support Instrument and/or a rating or ratings on the Series 2013B-2 Bonds or Notes. The Director of Finance may enter into one or more agreements for Credit Support Instruments containing terms not materially inconsistent with this Ordinance or the Indenture. The expenditure of the amounts necessary to secure Credit Support Instruments or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Series 2013B-2 Bonds or Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**Section 12. Financial Advisor.** The Director of Finance may obtain the services of one or more financial advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Ordinance to be determined by the Director of Finance. The Director of Finance may rely on the written advice of any financial advisor so retained. Any financial advisor employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the Original Purchasers and any other party interested in the transaction.

**Section 13. Open Meeting Determination.** It is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and any of its committees that resulted in these formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Ohio Revised Code.

**Section 14. Findings and Recitals of Validity.** It is hereby determined, represented and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds and the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Bonds or the Notes. It is further found and determined, and is hereby represented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provisions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

**Section 15. Delivery to County Fiscal Officer.** The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Fiscal Officer of the County of Cuyahoga, Ohio and to secure a receipt therefor.

**Section 16. Severability.** Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

**Section 17. Legislative Intent.** All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its Charter and Article XVIII of the Constitution of Ohio.

Nothing in this Ordinance is intended to, and no provision hereof shall be applied in any manner as would, impair the obligation of contract of the City with respect to any outstanding bonds, notes, certificates of indebtedness, other obligations, trust indentures, trust agreements, or other agreements or contracts made or entered into by the City and for which consideration was duly received by the City prior to the passage of this Ordinance.

**Section 18. Emergency Measure.** This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all 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 date allowed by law.

Referred to Directors of Capital Projects, City Planning Commission, Finance, Law; Committees on Public Parks, Properties and Recreation, Finance.

**Ord. No. 1465-13.**

**By Council Members K. Johnson and Kelley (by departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$27,110,000 for the purpose of providing funds to improve facilities for the discharge of governmental functions and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Twenty-Seven Million One Hundred and Ten Thousand Dollars (\$27,110,000) (the "Series 2013B-1 Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Series 2013B-1 Bonds shall be payable from and secured by income tax revenues of the City remaining after deposits required under the General Bond Ordinance (as defined in Section 2) are made to the escrow agent for the City's general obligation bonds; and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2013B-1 Bonds is at least five years and that the maximum maturity of the Series 2013B-1 Bonds is 28 years, a copy of which is contained in File No. 1465-13-A; and

Whereas, the authorization for issuance of the Series 2013B-1 Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1 hereof that are urgently needed for the benefit of the City, and as a result, this Ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety, and for the usual daily operation of a municipal department; now, therefore,

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

**Section 1. Purpose.** It is deemed necessary to issue the Series 2013B-1 Bonds in an aggregate principal amount not to exceed Twenty-Seven Million One Hundred and Ten Thousand Dollars (\$27,110,000) for the purpose of paying, or reimbursing the City for, the costs of improving facilities for the discharge of governmental functions or facilities for services otherwise benefiting the public safety, health and welfare, including acquiring, constructing, reconstructing, installing, renovating, enlarging and otherwise improving buildings, structures and other facilities in, of and for City Hall, police stations, including the 3rd District police station, fire stations, emergency medical centers, service stations, waste collection, transfer and disposal facilities, correctional facilities, health facilities, centers and other facilities including certain improvements relating to a proposed County-owned convention center hotel, the provision of necessary fixtures, furnishings, equipment, information technology hardware and software, utilities, site improvements and appurtenances, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority, Security and Source of Payment.** The Series 2013B-1 Bonds shall be issued pursuant to the provisions of the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the Charter of the City, and this Ordinance for the purpose stated in Section 1 hereof. The Series 2013B-1 Bonds shall be payable from and secured by the income tax revenues of the City on a basis subordinate to the security given to the General Obligation Bonds of the City ("General

Obligation Bonds") under Ordinance No. 1749-80 passed by the Council on October 8, 1980, as amended by Ordinance No. 1112-83 passed by the Council on May 6, 1983, and Ordinance No. 944-96, passed by the Council on June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"). The debt service on the Series 2013B-1 Bonds shall be payable from income tax collections remaining after depositing with the escrow agent under the General Bond Ordinance the amount required for the payment of debt service on the City's General Obligation Bonds issued and outstanding, from time to time, under the General Bond Ordinance. The Series 2013B-1 Bonds shall be issued and secured under the terms of the Trust Indenture, dated as of April 1, 2008, between the City and U.S. Bank National Association, as trustee (the "Trustee"), as amended by Section 6.1 of the Second Supplemental Trust Indenture, dated as of June 1, 2010, between the City and the Trustee (together, the "Indenture"). The Indenture currently secures five series of Subordinate Lien Income Tax Bonds issued on May 1, 2008 (collectively, the "Series 2008 Bonds"), four series of Subordinate Lien Income Tax Bonds issued on June 23, 2010 (collectively, the "Series 2010 Bonds"), one series of Subordinate Lien Income Tax Bonds issued on November 29, 2012 (the "Series 2012 Bonds") and three series of Subordinate Lien Income Tax Bonds issued on May 30, 2013 (the "Series 2013A Bonds") and permits the issuance of additional bonds, from time to time, subject to certain restrictions. The Series 2008 Bonds, the Series 2010 Bonds, the Series 2012 Bonds, the Series 2013A Bonds, the Series 2013B-1 Bonds and any additional bonds issued under the Indenture are collectively referred to in this Ordinance as the "Bonds."

**Section 3. Pledge and Covenant to Maintain Income Tax.** So long as Bonds are outstanding under the Indenture, the City pledges the municipal income taxes of the City and grants a lien thereon, subordinate to the lien granted in the General Bond Ordinance as security for the General Obligation Bonds of the City issued and outstanding under the General Bond Ordinance, to the full extent required to meet debt charges payable on the Bonds issued and outstanding, from time to time, under the Indenture. The City covenants to appropriate annually sufficient amounts from the income taxes to pay all debt charges on the General Obligation Bonds, the Bonds outstanding under the Indenture, any Parity Obligations and the Unrestricted Income Tax Obligations (each as defined in the Indenture). The City further covenants that so long as any Bonds are outstanding under the Indenture, the City shall not repeal or amend, or suffer the repeal of, any ordinance for the levy or collection of its income taxes in any manner or to such extent that the City would not be able to meet its obligations to the holders of the Bonds.

**Section 4. Terms of the Series 2013B-1 Bonds.** The Series 2013B-1 Bonds shall be issued in fully registered form. The Series 2013B-1 Bonds may be issued in one or more series or sub-



series. The Series 2013B-1 Bonds may be delivered only in book-entry form, and if so delivered, shall be registered in the name of the Depository (as defined in the Indenture) or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Indenture and the Fifth Supplement identified in Section 7. The Series 2013B-1 Bonds shall be designated "Public Facilities Improvement Bonds, Series 2013B-1" or may contain such other designation as provided in the Certificate of Award identified below. The Series 2013B-1 Bonds shall be issued in one lot as fully registered Series 2013B-1 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2013B-1 Bonds shall be numbered as determined by the Director of Finance. The Series 2013B-1 Bonds shall be signed by officials of the City in the manner set forth in the Indenture.

The Series 2013B-1 Bonds shall be dated the date of their issuance and delivery or such other date specified in the certificate of award providing for the final terms of the Series 2013B-1 Bonds and the sale of the Series 2013B-1 Bonds in accordance with this Ordinance (the "Certificate of Award"). The Series 2013B-1 Bonds shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the yield (determined in accordance with the arbitrage provisions of the Internal Revenue Code of 1986, as amended) of the Series 2013B-1 Bonds shall not exceed seven per cent (7.00%) per year; provided, however, that if the Series 2013B-1 Bonds are not Tax-Exempt Bonds (as defined below), the yield shall not exceed nine percent (9.00%) per year. Interest on the Series 2013B-1 Bonds shall be payable semi-annually on May 15 and November 15, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2013B-1 Bonds shall mature in the years and principal amounts set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, and (ii) the final maturity date of the Series 2013B-1 Bonds shall be a date no later than twenty-eight (28) years from a date twelve months prior to the first date on which provision for payment of principal is made for the Series 2013B-1 Bonds, as set forth in the Certificate of Award. The Series 2013B-1 Bonds stated to mature in any year may be issued as serial Series 2013B-1 Bonds or as term Series 2013B-1 Bonds payable prior to stated maturity pursuant to sinking fund redemption (the "Term Bonds"). The Director of Finance shall determine in the Certificate of Award whether any of the Series 2013B-1 Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements"). If any of the Series 2013B-1

Bonds are issued as Term Bonds, the Term Bonds shall be redeemed pursuant to the Mandatory Sinking Fund Redemption Requirements at a redemption price of 100% of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates. The aggregate of the moneys to be deposited with the Trustee for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided in the Indenture and the Fifth Supplement).

The Series 2013B-1 Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in whole multiples of \$5,000, on the redemption dates and at the redemption prices specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City (i) for some or all of the Series 2013B-1 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2013B-1 Bonds calculated in a manner to make the bondholder whole for the loss of the investment or calculated as a percentage in excess of 100% of the principal amount redeemed.

If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond which is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised as provided in the Fifth Supplement.

If and to the extent provided in the Certificate of Award, the Series 2013B-1 Bonds may be secured by a Debt Service Reserve Fund to be held by the Trustee under the Indenture. The principal amount of the Series 2013B-1 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Bonds, subject to compliance with applicable federal tax laws.

**Section 5. Sale of Series 2013B-1 Bonds.** The Series 2013B-1 Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to the purchaser identified in the Certificate of Award (the "Original Purchaser"). The Certificate of Award shall specify the final terms of the Series 2013B-1 Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 12 and the Original Purchaser's offer to purchase the Series 2013B-1 Bonds, including: the principal amount of the Series 2013B-1 Bonds (which shall not exceed the amount stated in Section 1), the purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of deliv-

ery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), terms and conditions under which any Series 2013B-1 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2013B-1 Bonds (if different from those set forth in Section 3) and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Series 2013B-1 Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Series 2013B-1 Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Series 2013B-1 Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Series 2013B-1 Bonds. The Director of Finance is authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2013B-1 Bonds and the Original Purchaser agrees to buy the Series 2013B-1 Bonds on terms consistent with this Ordinance and the Indenture, that are not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Series 2013B-1 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Fifth Supplement, are in the best interest of the City and in compliance with all legal requirements.

**Section 6. Application of Proceeds.** The proceeds from the sale of the Series 2013B-1 Bonds shall be applied as follows:

- a. to the payment of any providers of any Credit Support Instruments, the fees and expenses required to be paid by the City to obtain the Credit Support Instrument;
- b. to the Trustee, for deposit in the Interest Payment Account in the Debt Service Fund, the amount, if any, received by the City upon delivery of the Series 2013B-1 Bonds as capitalized interest or as accrued interest from their dated date to the date of their delivery to the Original Purchaser;

c. to the Trustee, for deposit in the Debt Service Reserve Fund, any amount identified in the Certificate of Award as required to be deposited in the Debt Service Reserve Fund; and

d. to the Trustee for deposit in the Project Fund, the balance of the proceeds (including, notwithstanding and as an exception to Chapters 177 and 179 of the Codified Ordinances, any original issue premium received from the sale of the Series 2013B-1 Bonds).

**Section 7. Supplemental Indenture.** The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Fifth Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2013B-1 Bonds, redemption of Series 2013B-1 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2013B-1 Bonds, defeasance of the Series 2013B-1 Bonds, and other terms consistent with this Ordinance and the Certificate of Award and approved by the Director of Finance as not substantially adverse to the City. The Fifth Supplement shall be approved as to form by the Director of Law. The determination by the Director of Finance that the provisions of the Fifth Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Fifth Supplement. As appropriate under the Charter, the Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments in addition to the Indenture and Fifth Supplement as may be necessary or appropriate to issue and sell the Series 2013B-1 Bonds and to consummate the transactions authorized by this Ordinance.

**Section 8. Bond Anticipation Notes.** For the purpose of raising money in anticipation of the issuance of the Series 2013B-1 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Twenty-Seven Million One Hundred and Ten Thousand Dollars (\$27,110,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award"). The Notes, if sold as fixed rate obligations, shall bear interest at such rate, not exceeding three percent (3.00%) per year, and shall be payable on the date or dates, as shall be determined by the Director of Finance in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award; shall be subject to redemption by the City at any time prior to maturity without penalty, unless the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, that the Notes not be redeemable prior to maturity or that a premium be paid on their prior redemption; shall be designated "Public Facilities Improvement Bond

Anticipation Notes" or as otherwise provided in the Note Certificate of Award; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system). The provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Notes and pursuant to that authority and this Ordinance, the Director of Finance may determine in the Note Certificate of Award, based on the written advice of a financial advisor, that the City's best interests will be served by causing all or a portion of the Notes to be obligations bearing interest at variable rates. If the Director of Finance so determines, then the Director of Finance shall specify in the Note Certificate of Award the method and procedure by which the variable rate of interest to be borne by the variable rate Notes shall be determined; provided that the variable rate Notes shall not bear interest at a rate in excess of Twenty-Five percent (25.00%) per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Notes, and from time to time thereafter so long as the variable rate Notes are outstanding, with providers of Credit Support Instruments (as defined in Section 11) and others as may be determined by the Director of Finance, based on the written advice of a financial advisor, to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender, providing for liquidity or credit support for the payment of the variable rate Notes upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument. The Trustee shall be the authenticating agent, registrar, transfer agent and paying agent for the Notes. The Notes shall be signed by the officials of the City and in the manner set forth in the Indenture. The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold at not less than par and accrued interest to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in the Note Certificate of Award to be executed by the Director of Finance. The proceeds of such sale shall be paid into the proper fund or funds set forth in the Note Certificate of Award and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

**Section 9. Official Statement; Continuing Disclosure.** If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Bonds, as the case may be, and any necessary supplements, and to authorize the use

and distribution of each Official Statement and any supplements. The Director of Finance is authorized to sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in the judgment of the Director of Finance, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 (the "SEC Rule"). The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Notes or the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

**Section 10. Federal Tax Considerations.** (a) **Tax-Exempt Bonds.** The representations and covenants in this subsection (a) apply only to Series 2013B-1 Bonds or Notes sold as obligations to which Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") applies, the interest on which is excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds").

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (i) the Tax-Exempt Bonds will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (B) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (ii) the interest on the Tax-Exempt Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

(b) **Further Actions.** The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2013B-1 Bonds and any Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2013B-1 Bonds and any Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2013B-1 Bonds and any Notes or interest thereon, or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing rebate amounts or payments or penalties or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, which action shall be in writing and signed by the officer, (ii) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the intended tax status of the Series 2013B-1 Bonds and any Notes and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2013B-1 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2013B-1 Bonds and any Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on the Series 2013B-1 Bonds and any Notes and the tax status of the Series 2013B-1 Bonds and any Notes.

**Section 11. Credit Facilities and Ratings.** If the Director of Finance determines it to be in the best interests of the City, based on the written advice of a financial advisor, the Director of Finance may obtain an insurance policy, letter of credit, standby bond purchase agreement or other credit enhancement instrument as further security for the payment when due of the principal of and interest on all or any portion of the Series 2013B-1 Bonds or any Notes (a "Credit

Support Instrument"). The Director of Finance may request a rating on the Series 2013B-1 Bonds or Notes from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a Credit Support Instrument and/or a rating or ratings on the Series 2013B-1 Bonds or Notes. The Director of Finance may enter into one or more agreements for Credit Support Instruments containing terms not materially inconsistent with this Ordinance or the Indenture. The expenditure of the amounts necessary to secure Credit Support Instruments or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Series 2013B-1 Bonds or Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**Section 12. Financial Advisor.** The Director of Finance may obtain the services of one or more financial advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Ordinance to be determined by the Director of Finance. The Director of Finance may rely on the written advice of any financial advisor so retained. Any financial advisor employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the Original Purchasers and any other party interested in the transaction.

**Section 13. Open Meeting Determination.** It is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and any of its committees that resulted in these formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Ohio Revised Code.

**Section 14. Findings and Recitals of Validity.** It is hereby determined, represented and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds and the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Bonds or the Notes. It is further found and determined, and is hereby represented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provisions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

**Section 15. Delivery to County Fiscal Officer.** The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Fiscal Officer of the County of Cuya-

hoga, Ohio and to secure a receipt therefor.

**Section 16. Severability.** Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

**Section 17. Legislative Intent.** All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its Charter and Article XVIII of the Constitution of Ohio.

Nothing in this Ordinance is intended to, and no provision hereof shall be applied in any manner as would, impair the obligation of contract of the City with respect to any outstanding bonds, notes, certificates of indebtedness, other obligations, trust indentures, trust agreements, or other agreements or contracts made or entered into by the City and for which consideration was duly received by the City prior to the passage of this Ordinance.

**Section 18. Emergency Measure.** This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all 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 date allowed by law.

Referred to Directors of Capital Projects, City Planning Commission, Finance, Law; Committees on Public Parks, Properties and Recreation, Finance.

**Ord. No. 1466-13.**

**By Council Members Brancatelli, Miller and Kelley (by departmental request).**

**An emergency ordinance authorizing the Directors of Community Development and Capital Projects to enter into an amendment to Contract No. CT 8006, NF 2013-016 between the City of Cleveland and UCAA LIMITED, an Ohio limited liability company, designee of The Finch Group, Inc. relating to the redevelopment of a portion of the Upper Chester Target Area.**

Whereas, under Contract No. CT 8006, NF 2013-016, the Directors of Community Development and Capital Projects entered into a develop-



ment agreement with UCAA LIMITED, an Ohio limited liability company, designee of The Finch Group, Inc., regarding the redevelopment of a portion of the Upper Chester Target Area; and

Whereas, the parties wish to amend the agreement to incorporate project changes regarding timing, location, and land use; 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 Directors of Community Development and Capital Projects are authorized to enter into an amendment to Contract No. CT 8006, NF 2013-016 between the City of Cleveland and UCAA LIMITED, an Ohio limited liability company, designee of The Finch Group, Inc. relating to the redevelopment of a portion of the Upper Chester Target Area. The amendment shall include, but not be limited to, an updated description of the project phases and a revised project development map within the original target area. An updated executive summary and legal descriptions for all permanent parcel numbers included under this amended agreement have been placed in File No. 1697-12-C [duplicate in File No. 1466-13-A], including the legal description of Permanent Parcel No. 119-09-107.

**Section 2.** That the amendment shall be prepared by the Director of Law.

**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.

Referred to Directors of Community Development, Capital Projects, City Planning Commission, Finance, Law; Committees on Community and Economic Development, Public Service, City Planning, Finance.

**Ord. No. 1467-13.**

**By Council Members Keane and Kelley (by departmental request).**

**An emergency ordinance authorizing the Director of Port Control to enter into one or more concession agreements with DTG Operations, Inc. dba Dollar Rent A Car and Thrifty Rental Car to operate a car rental service located off airport property and to impose and collect transportation and privilege fees for the use of City shuttle services for the traveling public, for a period ending January 31, 2015, with a five year option to renew, exercisable through additional legislative authority.**

Whereas, under Ordinance No. 699-08, passed December 8, 2008, and Board of Control Resolution No. 7-10, adopted January 10, 2010, the Director of Port Control entered into a Lease by Way of Concession with DTG Operations, Inc. dba Dollar Rent A Car and Thrifty Rental Car ("DTG"), beginning February 1, 2010 to operate and maintain a car rental agency at the Consolidated Rental Car Facility ("RAC") at Cleveland Hopkins International Airport ("CHIA"); and

Whereas, in November 2012, The Hertz Corporation ("Hertz") acquired DTG and to satisfy anti-trust concerns, Hertz and DTG agreed to certain terms approved by anti-trust regulators; and

Whereas, as a part of those terms, Hertz and DTG agreed to relinquish DTG's right to operate on several airport-owned locations around the country, which included the City of Cleveland's RAC; and

Whereas, DTG desires to continue to provide car rental services, including shuttle services, for the travelling public; and

Whereas, the City desires to enter into one or more concession agreements with DTG to provide car rental and shuttle services to the travelling public, mirrored under the same terms and conditions as the agreements entered into under the authority of Ordinance No. 699-08 by other car rental agencies located at the RAC; 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 any section of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Port Control is authorized to enter into one or more concession agreements with DTG to provide car rental and shuttle services to the travelling public. Applicable terms and conditions of the concession agreements shall be the same as the applicable terms and conditions of the agreements entered into under the authority of Ordinance No. 699-08 by other car rental agencies located at the RAC.

**Section 2.** That, similar to the agreements entered into under the authority of Ordinance No. 699-08 by other car rental agencies located at the RAC, the concession agreement or agreements with DTG may provide for a remote rental car shuttle system for pick-up and drop-off of customers between CHIA and their off-site location, including any applicable support services. CHIA is authorized to collect a transportation fee charge from DTG for the use of the rental car shuttle bus services to be fixed annually by the Director of Port Control or otherwise provided in the Concession Agreement.

**Section 3.** That DTG shall pay a monthly privilege fee to CHIA of 10% of their gross revenues received from performing services either to or from CHIA less all revenue that DTG can attribute to services provided for local customers. Under the concession agreement with DTG, CHIA shall bill DTG for any outstanding gross revenue percentage fee not received between May 15, 2013 and execution of the agreement.

**Section 4.** The term of the concession agreement or agreements with DTG shall be for a period beginning May 15, 2013 and ending January 31, 2015, with one five-year option to renew, exercisable through additional legislative authority, which is similar to the agreements entered into under the authority of Ordinance No. 699-08 by other car rental agencies located at the RAC.

**Section 5.** That the concession agreement or agreements shall be prepared by the Director of Law.

**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.

Referred to Directors of Port Control, Finance, Law; Committees on Aviation and Transportation, Finance.

**Ord. No. 1468-13.**

**By Council Members Keane and Kelley (by departmental request).**

**An emergency ordinance authorizing the Director of Port Control to exercise the first option to renew Contract No. PS 2012-076 with Airports Council International to provide customer service satisfaction surveys, data collection, reporting, benchmarking and related services.**

Whereas, under the authority of Ordinance No. 681-11, passed July 20, 2011, as amended by Ordinance No. 1683-11, December 5, 2011, the Director of Port Control entered into Contract No. PS 2012-076 with Airports Council International to provide customer service satisfaction surveys, data collection, reporting, benchmarking and related services; and

Whereas, Ordinance No. 1683-11 requires further legislation before exercising the first option to renew on this contract; 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 Port Control is authorized to exercise the first option to renew Contract No. PS 2012-076 for an additional year with Airport Council International to provide customer service satisfaction surveys, data collection, reporting, benchmarking and related services for the Department of Port Control. This ordinance constitutes the additional legislative authority required by Ordinance No. 1683-11 to exercise this option. (RQS 3001, RL 2013-155).

**Section 2.** That the Director of Port Control is authorized to pay Airport Council International for services performed under Contract No. PS 2012-076 from funds Appropriated in Budget Years 2013 and 2014 for this purpose.

**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.

Referred to Directors of Port Control, Finance, Law; Committees on Aviation and Transportation, Finance.

**Ord. No. 1469-13.**

**By Council Members Zone and Kelley (by departmental request).**

**An emergency ordinance authorizing the Director of the Office of Equal Opportunity to enter into a grant agreement with the Greater Cleveland Partnership to contribute to the costs of a labor demand study for residents of the City of Cleveland.**

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 Office of Equal Opportunity is authorized to enter into a grant agreement with the Greater Cleveland Partnership to contribute to the costs of the Greater Cleveland Partnership contracting with a consultant to conduct a labor demand study for residents of the City of Cleveland.

**Section 2.** That the costs of the grant shall not exceed an amount of \$25,000 and shall be paid from Fund No. 10 SF 082, RQS 0113, RL 2013-154.

**Section 3.** That the agreement and other appropriate documents needed to complete the transaction authorized by this legislation shall be prepared by the Director of Law.

**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.

Referred to Directors of Office of Equal Opportunity, Finance, Law; Committees on Employment, Affirmative Action and Training, Finance.

**Ord. No. 1470-13.**

**By Council Members K. Johnson, Cleveland and Kelley (by departmental request).**

**An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for the City's use located at the southeast corner of Harvard Road and Mill Pond Drive in the Village of Highland Hills to PROPSTONE, LLC to construct a behavioral hospital for mental health and substance abuse patients.**

Whereas, under City of Cleveland Ordinance No. 1235-95, passed October 23, 1995, and under the Village of Highland Hills Ordinance Nos. 1995-20, passed August 14, 1995 and Ordinance No. 1995-28, passed December, 13, 1995, both the City of Cleveland and the Village of Highland Hills entered into a Joint Economic Development Zone Agreement ("JEDZA") affecting the development of approximately 80 acres of land located in the Village of Highland Hills and known as the Cleveland Enterprise Park; and

Whereas, the Director of Public Works has requested the sale of the City-owned property to PROPSTONE, LLC (the "Redeveloper") no longer needed for the City's use and located at the southeast corner of Harvard Road and Mill Pond Drive in the Village of Highland Hills so that Redeveloper may construct a behavioral hospital for mental health and substance abuse patients at that location; and

Whereas, the project has been reviewed and approved by the Village of Highland Hills as meeting the design intent and final development plan of the JEDZA Joint Economic Development Zone Agreement between the City of Cleveland and Village of Highland Hills; 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 the City's use:

**TRACT "A"**

Beginning at a point in the Northwest corner of said tract at the intersection of Harvard Road and Mill Pond Drive Right-of-way S 46°35'02" W a distance of 43.76 feet to a point, with a radius of 30.00 feet; thence S 00°01'03" W a distance of 192.39 feet to a point; thence S 07°33'42" E a distance of 24.01 feet to a point, with a radius of 93.00 feet; thence S 14°50'29" E a distance of 258.25 feet to a point; thence S 15°20'03" E a distance of 4.80 feet to a point, with a radius of 345.00 feet; thence S 87°30'05" E a distance of 325.16 feet to a point; thence N 62°26'34" E a distance of 275.94 feet to a point; thence N 03°15'39" E a distance of 359.87 feet to a point; thence N 86°30'54" W a distance of 393.85 feet to a point; thence S 88°30'36" W a distance of 120.33 feet to a point; thence N 86°32'53" W a distance of 115.48 feet, which is the point of beginning, having an area of 6.8 acres or 297,624 square feet.

**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 the appraised value of \$1,292,000, taking into account all restrictions, reversionary interests and similar encumbrances as may be 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.

Referred to Directors of Public Works, City Planning Commission, Finance, Law; Committees on Public Parks, Properties and Recreation, City Planning, Finance.

**Ord. No. 1473-13.**

**By Council Member Westbrook.**

**An emergency ordinance to amend Section 676.08 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 329-11, passed April 25, 2011, Section 681.05, as amended by Ordinance No. 2704-**

**A-90, passed June 15, 1992, and Section 681.06, as amended by Ordinance No. 83022, passed October 22, 1928, and supplementing the codified ordinances by enacting new Section 676.081, requiring electronic reporting of transaction records by secondhand dealers and pawnbrokers.**

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 676.08 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 329-11, passed April 25, 2011, Section 681.05, as amended by Ordinance No. 2704-A-90, passed June 15, 1992, and Section 681.06, as amended by Ordinance No. 83022, passed October 22, 1928, are amended as follows:

**Section 676.08 Duty of Dealer in Secondhand Articles; Identification Required from Seller; Records**

(a) "Personal identification card" means a current and valid driver's license, military identification card, state identification card issued under RC 4507.50 to 4507.52, or a state identification card issued by another state on the condition that that card contains information substantially similar to the information contained on a state identification card issued under RC 4507.50 to 4507.52 and also contains a photograph of the person to whom the card is issued.

(b) A person other than a scrap metal dealer, as defined in Section 676.06, purchasing, selling, exchanging, or receiving secondhand articles of any kind other than special purchase articles as defined in Section 676.06 scrap iron, and scrap metal, shall post in a conspicuous place in or upon the person's shop, store, wagon, boat, or other place of business, a sign having the person's name and occupation legibly inscribed thereon, and shall keep a separate electronic record in which shall be written, in the English language, at the time of the purchase or exchange of such articles, a description thereof, the name, description, and residence of the person from whom purchased and received, and the day and time when such purchase or exchange was made, and shall make and keep a copy of the person's personal identification card. Every entry shall be numbered consecutively, commencing with number one (1).

The purchaser shall retain the electronic record and copies of personal identification cards for at least one (1) year after the purchase or exchange date and shall make the record or file and copies available for inspection by any law enforcement officer at all reasonable times.

**Section 681.05 Register Required; Inspection**

A person so licensed shall keep a correct list and clear description, as an electronic record for that purpose, of each article pledged or deposited with him or her, or on which advances of money have been made, or which has been purchased by him or her including personal property, bonds, notes and/or other securities. A pawnbroker shall not accept any deposit, pledge, or purchase without first ascertaining the identity of the prospective depositor by being presented a valid driver's or commercial

driver's license or an identification card issued by the State of Ohio. The social security number, name, age, **description**, and place of residence of the depositor and the date and hour when the deposit was made shall be entered and kept in the **electronic record** for a period of not less than two (2) years from the date of the deposit, pledge or purchase. The **electronic record** shall also contain any entry setting forth the interest to be charged on the amount of money loaned. Entries shall be **made** in the English language, and no entry shall be **deleted**, obliterated or defaced. The book shall be open to inspection at all reasonable times by the Commissioner of Assessments and Licenses, any person deputed by him or her, the Chief of Police, any police officer deputed by him or her, the Mayor, or any person deputed by him or her. Upon demand of any of such officials, the licensee shall produce and show any article listed and described in the **electronic record**, which is in his or her possession.

**Section 681.06 Pawnbrokers to Electronically Submit to the Division of Police the Records of Transactions Required to be Kept**

*Findings.* This Council finds that the only practicable way to review the large volume of records required to be kept by pawnbrokers both by RC Chapter 4727 and this chapter is in an electronic format. The requirement imposed upon pawnbrokers by this section that they submit reports of their transactions to the Division of Police in an electronic format is complimentary to the requirement of recordkeeping already imposed by state law and furthers the same law enforcement purposes as the recordkeeping requirements.

(a) No pawnbroker shall fail to submit to the Division of Police each day the records of transactions required to be kept under Section 681.05 utilizing a computer program to be provided by the Division of Police for use by pawnbrokers and accessible to them via the internet in a form approved by the Superintendent of financial institutions in accordance with RC Section 4727.08(J).

(b) The Director of Public Safety may issue rules and regulations to effectuate the electronic reporting requirement imposed by this section, which shall take effect fourteen (14) days after their publication in the *City Record*.

**Section 2.** That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 676.81 as follows:

**Section 676.081 Secondhand Dealers to Electronically Submit to the Division of Police the Records of Transactions Required to be Kept**

*Findings.* This Council finds that the only practicable way to review the large volume of records required to be kept by secondhand dealers both by RC Chapter 4737 and this chapter is in an electronic format. The requirement imposed upon secondhand dealers by this section that they submit reports of their transactions to the Division of Police in an electronic format is complimentary to the requirement of recordkeeping already imposed by state law and furthers the same law enforcement purposes as the recordkeeping requirements.

(a) No secondhand dealer shall fail to submit to the Division of Police each day the records of transactions required to be kept under Section 676.08 utilizing a computer program to be provided by the Division of Police for use by secondhand dealers and accessible to them via the internet.

(b) The Director of Public Safety may issue rules and regulations to effectuate the electronic reporting requirement imposed by this section, which shall take effect fourteen (14) days after their publication in the *City Record*.

**Section 3.** That this ordinance shall take effect and be in force 120 days after passage.

**Section 4.** That existing Section 676.08 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 329-11, passed April 25, 2011, Section 681.05, as amended by Ordinance No. 2704-A-90, passed June 15, 1992, and Section 681.06, as amended by Ordinance No. 83022, passed October 22, 1928 are repealed.

**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.

Referred to Directors of Public Safety, Finance, Law; Committees on Public Safety, Legislation, Finance.

**Ord. No. 1474-13.**

**By Council Member Cimperman. An emergency ordinance to amend Section 447.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance Number 2459-A-91, passed December 14, 1992, and Section 447.08, as amended by Ordinance No. 944-01, passed May 21, 2001, exempting carriage operators and businesses that operate as part of a special event for less than three consecutive days from licensing requirements.**

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 447.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance Number 2459-A-91, passed December 14, 1992, and Section 447.08, as amended by Ordinance No. 944-01, passed May 21, 2001 are amended to read as follows:

**Section 447.02 Licenses Required**

(a) No person shall operate any carriage upon the public rights of way of the City without a carriage license and a carriage operator's license, each issued pursuant to Section 447.07.

(b) No person shall operate a carriage business in the City without a carriage business license issued pursuant to Section 447.07.

**(c) A carriage operator or business that operates, without charging the public a fee, as part of a special event permitted under Section 131.07 that lasts less than three consecutive days shall be exempt from the license requirements of divisions (a) and (b) of this section.**

**Section 447.08 Regulations Governing Carriages and Carriage Businesses**

(a) No carriage may operate in or upon the public rights of way of the City without displaying its carriage license and its carriage business license, **unless exempt under Section 447.02(c) from the license requirements.**

(b) No carriage operator may operate a carriage without having the carriage operator's license issued pursuant to division (d) of Section 447.07 upon his or her person, **unless exempt under Section 447.02(c) from the license requirements.** When passengers are being picked up or discharged by a horse-drawn carriage, a carriage operator's assistant shall assist the carriage operator so that the carriage operator may devote his or her attention entirely to operating the carriage and keeping the horse and carriage under secure control.

(c) Every carriage business shall provide each of its horse-drawn vehicles with rate cards which set forth the rates and charges filed with the Commissioner pursuant to division (a)(3) of Section 447.03. Rate cards shall be prominently displayed within each carriage, and each carriage operator shall acquaint all prospective passengers with current rates and charges prior to taking on said passengers. Rates shall not be changed without ten (10) days prior written notice to the Commissioner.

(d) No carriage operator or carriage operator's assistant shall solicit passengers in a loud voice or in such a manner as to annoy or obstruct the movement of any person; nor shall any carriage operator pursue any person for purposes of soliciting patronage.

(e) No carriage operator or carriage operator's assistant shall smoke while operating a carriage that is carrying passengers.

(f) No carriage operator shall permit the occupancy of the carriage which he or she is operating to exceed the rated seating capacity of that carriage.

(g) Each carriage operator shall ensure that all of his or her passengers are seated inside the carriage when the carriage is in motion.

(h) Carriages shall be operated as near to the right side of the roadway as practicable, shall obey all traffic laws, rules, and regulations applicable to motor vehicles, and shall exercise due care when passing a standing vehicle or a vehicle which is proceeding in the same direction.

(i) Horse-drawn carriages shall pick up and discharge passengers only while legally parked at the curb in zones established by the Director of Public Safety after consultation with the Commissioner of Traffic Engineering. All other carriages may pick up and discharge passengers anywhere along their approved routes, provided that they are legally parked at the curb when doing so.

(j) No person shall operate a carriage on the streets of the City except during the hours of 10:00 a.m. to 4:00 p.m., Mondays through Fridays, 6:00 p.m. to midnight, Mondays through Fridays, and 8:00 a.m. to midnight on Saturdays, Sundays, and legal holidays.

(k) No person shall operate a carriage on any street of the City which has been closed pursuant to lawful authority, including closings pur-



suant to Sections 133.03, 403.05, or 411.05 of these Codified Ordinances. Upon notification of the Police Traffic Commissioner that special circumstances cause a particular street or a particular area to be unsafe or too congested for the operation of carriages during a specified time period, no person shall operate a carriage upon such street or in such area during such time period.

(1) No person shall carry passengers in a carriage into or out of the Flats on the west side of the Cuyahoga River. No person shall carry passengers in a carriage into or out of the Flats on the east side of the Cuyahoga River, except on Front Street.

(m) All horse-drawn carriage business owners and horse-drawn carriage operators shall maintain their horses in accordance with the following standards of animal husbandry:

(1) No person shall operate a horse-drawn carriage when the temperature, as reported by the National Weather Service, exceeds eighty-five degrees Fahrenheit (85°F).

(2) No person shall work any one (1) horse more than six (6) hours per day.

(3) Every horse-drawn carriage owner shall properly fit or cause to be fitted each of his or her horses with rubber shoes.

(4) Every horse-drawn carriage business owner and every horse-drawn carriage operator shall ensure that his or her horses are properly watered and given a ten (10) minute rest period for every hour of use, are in good health and at a proper body weight, are not more than fifteen (15) years old, and are properly fitted with harness and tack.

(5) Every horse-drawn carriage business owner shall ensure that emergency veterinary treatment is available for his or her horse.

(6) No horse-drawn carriage business owner or carriage operator shall permit more than four (4) passengers in a horse-drawn carriage at any time.

(n) Every six (6) months, commencing with the date of the application submitted pursuant to division (b) of Section 447.03, a carriage license holder shall submit to the Police Traffic Commissioner a medical certificate for each horse used by the carriage license holder in the operation of horse-drawn carriages. **A carriage operator that is exempt under Section 447.02(c) shall submit to the Special Events Committee the same medical certificate for each horse used by the carriage operator.** The medical certificate shall be signed by a registered veterinarian and shall indicate that the horse is

medically fit, in good health both physically and by temperament, sufficient to pull a horse-drawn carriage, and has received all those inoculations which are determined to be usual and customary according to generally-accepted principles of animal husbandry.

(o) Every horse-drawn carriage owner shall ensure that, whenever his or her horses are upon the public rights-of-way, each of them is fitted with a device which prevents the horse's feces from dropping to the ground.

**Section 2.** That existing Section 447.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance Number 2459-A-91, passed December 14, 1992, and Section 447.08, as amended by Ordinance No. 944-01, passed May 21, 2001, 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.

Referred to Directors of Public Safety, Finance, Law; Committees on Public Safety, Legislation, Finance.

#### FIRST READING ORDINANCE REFERRED

##### Ord. No. 1461-13.

By Council Member Dow.

**An ordinance changing the Use, Area and Height Districts of land located on the north side of Chester Avenue between East 97th Street and East 101st Street to a Local Retail Business District, an 'F' Area District and a '3' Height District (Map Change No. 2465).**

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 Original 100 Acre Lot No. 401 and more fully bound and described as follows:

Beginning in the centerline of Chester Avenue at its intersection with the centerline of East 101st Street;

Thence westerly along said centerline of Chester Avenue to its intersection with the centerline of East 97th Street;

Thence northerly along said centerline of East 97th Street to its intersection with the westerly prolongation of the centerline of Logan Court;

Thence easterly along said westerly prolongation and said centerline to its intersection with the southerly prolongation of the westerly line of Sublot No. 16 in the Marsh and Cody Brothers Re-Subdivision as shown on the recorded plat in Volume 14, Page 48 of Cuyahoga County Map Records;

Thence northerly along said southerly prolongation and said westerly line to its intersection with the northerly line thereof;

Thence easterly along said northerly line and along its easterly prolongation to its intersection with the easterly line of Sublot No. 12 in the aforementioned Marsh and Cody Brothers Re-Subdivision;

Thence southerly along said easterly line to its intersection with the westerly prolongation of the southerly line of Sublot No. 17 in the Logan Co. Subdivision shown on the recorded plat in Volume 40, Page 20 of Cuyahoga County Map Records;

Thence easterly along said westerly prolongation of said southerly line and continuing along its easterly prolongation to its intersection with the westerly line of Sublot No. 22 in the aforementioned Logan Co. Subdivision;

Thence northerly along said westerly line and along its northerly prolongation to its intersection with the centerline of Newton Avenue;

Thence easterly along said Newton Avenue and along its easterly prolongation to its intersection with the centerline of East 101st Street;

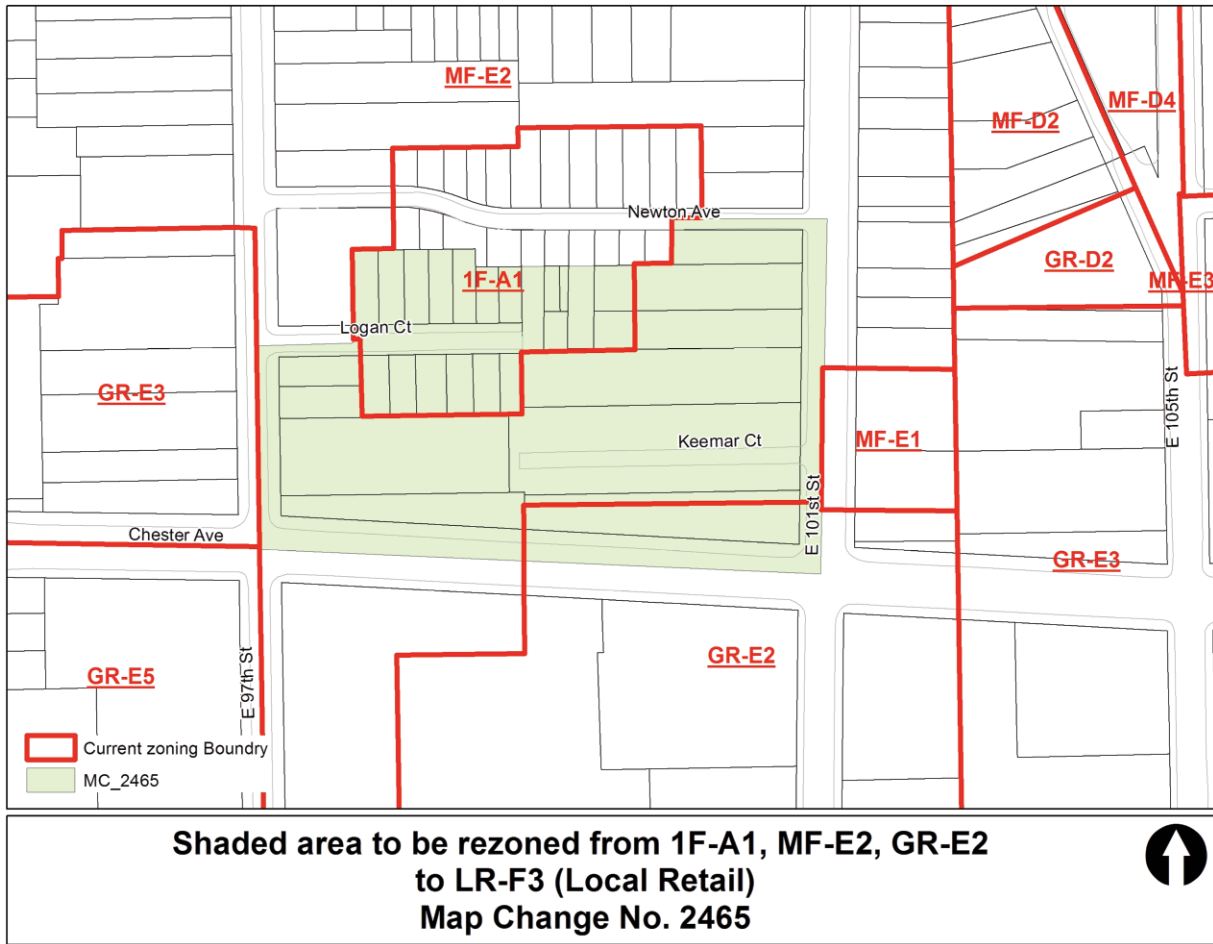
Thence southerly along said centerline of East 101st Street to its intersection with the centerline of Chester Avenue and the principal place of beginning;

and as shaded on the attached map is changed to a Local Retail Business District, an 'F' 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. 2465, 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 the front setback requirements along Chester Avenue, East 101st Street and East 97th Street are eliminated; therefore, the area described in Section 1 and shown on the attached map is exempt from Section 357.04 of The Cleveland Codified Ordinances.

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



Referred to Directors of City Planning Commission, Law; Committees on City Planning, Finance.

**FIRST READING EMERGENCY RESOLUTIONS REFERRED**

**Res. No. 1471-13.**

**By Council Members Cummins, Miller, Cleveland and Kelley (by departmental request).**

**An emergency resolution declaring the intent to vacate a portion of West 26th Place.**

Whereas, this Council is satisfied that there is good cause to vacate a portion of West 26th 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 intent to vacate a portion of the following described real property:

**A Portion of West 26th Place (16.00 feet wide)**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Brooklyn Township Lot Number 69, further described as follows:

Being all that portion of West 26th Place (16.00 feet wide) extending for the South right-of-way of Swift Avenue S.W. (25.00 feet wide) Southeasterly to its Southerly terminus.

Legal Description approved by Greg Esber, 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.

Referred to Directors of Capital Projects, City Planning Commission, Finance, Law; Committees on Public Service, City Planning, Finance.

**Res. No. 1472-13.**

**By Council Member Cimperman.**  
**An emergency resolution acknowledging the City of Cleveland's Healthy Cleveland partners who developed nutrition guidelines for food served at City of Cleveland facilities, community centers, food banks and pantries, and encouraging community organizations to adopt the Healthy Cleveland nutrition guidelines.**

Whereas, every day in Greater Cleveland, thousands of meals and snacks are served to children beyond school hours, to seniors beyond their homes, and to community residents via countless community centers, food banks, and food pantries; and

Whereas, the majority of these meals are served to the one in six Cleveland residents who are struggling to find their next meal, and obtain an invaluable source of nutrition, community engagement, and sustenance; and

Whereas, Healthy Cleveland's healthy eating subgroup developed nutrition guidelines for food served based on the USDA Dietary Guidelines current recommendations for consumers; and

Whereas, these guidelines were developed in partnership with The Cleveland Foodbank, Children's Hunger Alliance, Hunger Network of Greater Cleveland, City of Cleveland, Healthy Cleveland, Cuyahoga County, Cleveland Clinic, Ohio State University Extension and The Cleveland-Cuyahoga County Food Policy Coalition; and

Whereas, Cleveland City Council acknowledges its partners The Cleveland Foodbank, Children's

Hunger Alliance, and Cleveland Clinic who helped develop the guidelines and are early adopters of the guidelines; and

Whereas, the City of Cleveland plans to adopt these nutrition guidelines at all of its facilities, and encourages other community organizations to adopt Healthy Cleveland nutrition guidelines; 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 acknowledges the City of Cleveland's Healthy Cleveland partners who developed nutrition guidelines for food served at City of Cleveland facilities, community centers, food banks and pantries, and encouraging community organizations to adopt Healthy Cleveland nutrition guidelines.

**Section 2.** That the Clerk of Council is directed to transmit a copy of this resolution to Chris Vogliano and Thea DeRosa at The Cleveland Foodbank, Shannon Kosmatka at Children's Hunger Alliance, and Laura Jeffers at Cleveland Clinic.

**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.

Referred to Directors of Public Health, Law; Committees on Health and Human Services, Finance.

**FIRST READING EMERGENCY RESOLUTIONS READ IN FULL AND ADOPTED**

**Res. No. 1462-13.**

**By Council Member Sweeney.**

**An emergency resolution withdrawing objection to a New C1 Liquor Permit at 4713 West 130th Street and repealing Resolution No. 1209-13, objecting to said permit.**

Whereas, this Council objected to a New C1 Liquor Permit to 4713 West 130th Street by Resolution No. 1209-13 adopted by the Council on September 16, 2013; 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 4713 West 130th Street, Inc., 4713 West 130th Street, Cleveland, Ohio 44135, Permanent Number 2830532, be and the same is hereby withdrawn and Resolution No. 1209-13, 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.

Motion to suspend rules, Charter, and statutory provisions and place on final adoption.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

**Res. No. 1475-13.**

**By Council Members Reed, Cummins, Conwell, J. Johnson and Mitchell.**

**An emergency resolution calling upon the CBS News organization, specifically the 60 Minutes television news magazine to hire African-Americans and Hispanics as contributing correspondents.**

Whereas, Ed Bradley, a well-known and respected African-American journalist was a contributing correspondent for the CBS news magazine 60 Minutes for 25 years; and

Whereas, at the time of Ed Bradley's death in 2006, he was 60 Minutes' only on-screen black correspondent; and

Whereas, it took 60 Minutes 3 years to find another African-American contributing correspondent, hiring Byron Pitts in 2009, the first African-American contributing correspondent at 60 Minutes since Bradley's death; and

Whereas, Byron Pitts left 60 Minutes for ABC news in March 2013, leaving the news magazine again with no African-American on-screen correspondent; and

Whereas, although there are Hispanic news correspondents, such as Soledad O'Brien and John Quinones, on news shows at other networks, no Hispanics are represented as contributing correspondents on 60 Minutes; and

Whereas, 60 Minutes, as the number 1 television news magazine in the country, should have contributing correspondents that are members of the leading minorities in this country; 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 calls upon the CBS News organization, specifically the 60 Minutes television news magazine to hire African-Americans and Hispanics as contributing correspondents.

**Section 2.** That the Clerk of Council is hereby directed to transmit copies of this resolution to the executives and producers at CBS News and 60 Minutes, to NBC-LEO, HELO, the board of the National League of Cities, the chair of the Congressional Black Caucus Ohio Congresswoman Marcia Fudge, the Hispanic Roundtable, the Hispanic Alliance, and the Cleveland Spanish-American Committee.

**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.

Motion to suspend rules, Charter and statutory provisions and place on final adoption.

The rules were suspended. Yeas 18. Nays 0. Read third time in full. Adopted. Yeas 17. Nays 1.

Those voting Yea: Council Members Brady, Brancatelli, Cimperman, Cleveland, Conwell, Cummins, J. Johnson, K. Johnson, Keane, Kelley, Miller, Mitchell, Polensek, Pruitt, Reed, Westbrook and Zone.

Those voting Nay: Council Member Sweeney.

Absent: Council Member Dow.

**Res. No. 1476-13.**

**By Council Members Pruitt, Westbrook, Zone, Mitchell, Brancatelli, Polensek, Cleveland, Conwell, Keane, Cummins and J. Johnson.**

**An emergency resolution supporting the state of Ohio's Energy Efficiency Resource Standard and Renewable Portfolio Standard and opposing Substitute Senate Bill 58 and House Bill 302 which would gut those standards and the consumer-friendly benefits that save electricity costs and create jobs.**

Whereas, Ohio's energy efficiency and renewable energy standards have been in place for over five years, since SB 221 was passed in April, 2008; and

Whereas, in 2012, Governor Kasich, with bi-partisan support from the Ohio legislature, reviewed these standards and passed SB 315, making the energy efficiency standards stronger by including technologies to help Ohio manufacturers; and

Whereas, to date, all four of Ohio's Investor Owned Utilities are exceeding the standards; and

Whereas, energy efficiency is one of the cleanest and cheapest ways to address our energy needs, and is still the lowest-cost electric system resource, even in a time of very low natural gas prices, and

Whereas, these energy efficiency standards have saved rate payers an average of 1.4 % or \$300 million dollars each year since their inception; continuing utility commitments to such standards will save \$5.6 billion in avoided energy expenditures; and

Whereas, requiring utilities to participate in energy efficiency programs has been shown to reduce Ohio's energy consumption, encourage the development of energy efficiency technologies within Ohio, reduce the cost of electricity and create local jobs, and

Whereas, energy efficiency investments pursuant to Ohio's Energy Efficiency Resource Standard are made only when the efficiency costs less than an equal amount of energy, and the costs consumers and businesses pay for these programs is typically far outweighed by the savings they provide, and

Whereas, investments in energy efficiency and renewable energy not only reduce overall expenditures on energy, but provide important environmental and health benefits to the community, including reductions in toxic air pollutants such as methane, nitrous oxide, nitrogen oxide, sulfur oxides, carbon monoxide, particulate matter, lead, and mercury, and



Whereas, more than 160 companies in Ohio provide jobs in the solar industry and 55 of these companies have manufacturing facilities in the state; further, Ohio ranks #4 in wind industry employment, largely due to our strong manufacturing base; and

Whereas, in July, 2013, the City provided 100% renewable electricity to 65,000 residents and small business customers through municipal aggregation; and

Whereas, the Ohio legislature is currently attempting to halt the state's Energy Efficiency Resource Standard by passing Substitute SB 58 and HB 302; and

Whereas, Sub. SB 58 and HB 302 threaten to outsource Ohio jobs, increase the cost of electricity and give an unprecedented profit to electric utilities at the expense of Ohio's residents and businesses; and

Whereas, Sub. SB 58 and HB 302 will reverse the significant progress made since the 2008 adoption of Ohio's Energy Efficiency Resource Standard and Renewable Portfolio Standard; and

Whereas, this Council joins with Mayor Frank Jackson, the 1.5 million people represented by the AARP, the 600,000 members of the Ohio Manufacturer's Association, the American Lung Association, United Steel Workers, Sheet Metal Workers International, the Toledo Blade, the Akron Beacon Journal, and the Cleveland Plain Dealer, among others, who oppose the stripping of Ohio's energy efficiency standards; 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 supports the state of Ohio's Energy Efficiency Resource Standard and Renewable Portfolio Standard and opposes Substitute Senate Bill 58 and House Bill 302 which would gut those standards and the consumer-friendly benefits that save electricity costs and create jobs.

**Section 2.** That the Clerk is directed to send copies of this resolution to Governor John Kasich, Ohio Senate President Keith Faber, Ohio House Speaker Bill Batchelder, Senate Energy and Public Utilities Committee Chair Senator Bill Seitz, Ohio House Public Utilities Committee Chair Representative Peter Stautberg, all members of the Ohio House and Senate Public Utilities Committees; Executive Assistant for Energy, Environment and Agriculture, Craig Butler, and Director of Policy Wayne Struble.

**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.

Motion to suspend rules, Charter, and statutory provisions and place on final adoption.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

**SECOND READING EMERGENCY ORDINANCES PASSED**

**Ord. No. 1113-13.**

By Council Members Keane, Cleveland and Kelley (by departmental request).

An emergency ordinance authorizing the issuance and sale by the city of airport system revenue bonds in an aggregate principal amount not to exceed one hundred million dollars (\$100,000,000) to pay costs of improving the airport system; authorizing supplemental indentures and other agreements related to the bonds; and authorizing and approving related matters.

Approved by Directors of Port Control, City Planning Commission, Finance, Law; Passage recommended by Committees on Aviation and Transportation, City Planning, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

**Ord. No. 1234-13.**

By Council Members Cimperman, Mitchell and Kelley (by departmental request).

An emergency ordinance to amend Section 225.08 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 2393-02, passed February 3, 2003, relating to body piercing and tattooing establishments and fees; and to rename Chapter 225 to "Barber Shops, Body Piercing, and Tattooing Establishments."

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Legislation, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

**Ord. No. 1297-13.**

By Council Members Cleveland, Miller and Kelley (by departmental request).

An emergency ordinance to vacate a portion of Grand Avenue, S.E.

Approved by Directors of Capital Projects, City Planning Commission, Finance, Law; Passage recommended by Committees on Public Service, City Planning, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

**Ord. No. 1341-13.**

By Council Members Mitchell and Kelley (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Administrator of the Common Pleas Court, to apply for and accept a grant from Cuyahoga County for the Veterans Treatment Docket - Operations Program.

Approved by Directors of Finance, Law; Passage recommended by Committees on Legislation, Finance, when amended, as follows:

1. In the title, line 3; in Section 1, line 2; and in Section 3, line 4, strike "Common Pleas Court" and insert in all three places "**Cleveland Municipal Court**".

Amendment agreed to. The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

In compliance with Section 33 of the Charter a copy of the legislation was furnished to each member of Council before final passage.

**Ord. No. 1342-13.**

By Council Members Mitchell and Kelley (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Administrator of the Common Pleas Court, to apply for and accept a grant from Cuyahoga County for the Veterans Treatment Docket - Residential Program; and authorizing the Director to enter into one or more contracts with Y-Haven and Case Western Reserve University to implement the grant.

Approved by Directors of Finance, Law; Passage recommended by Committees on Legislation, Finance, when amended, as follows:

1. In the title, line 3; in Section 1, line 2; and in Section 3, line 4, strike "Common Pleas Court" and insert in all three places "**Cleveland Municipal Court**".

Amendment agreed to. The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

In compliance with Section 33 of the Charter a copy of the legislation was furnished to each member of Council before final passage.

**MOTION**

On the motion of Council Member Miller, the absence of Council Member TJ Dow is hereby authorized. Seconded by Council Member Cummins.

**MOTION**

The Council Meeting adjourned at 7:47 p.m. to meet on Monday, November 11, 2013, at 7:00 p.m. in the Council Chamber.



Patricia J. Britt  
City Clerk, Clerk of Council

**THE CALENDAR**

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

NONE

**BOARD OF CONTROL**

October 23, 2013

The Regular meeting of the Board of Control convened in the Mayor's office on Wednesday, October 23, 2013 at 10:39 a.m. with Director Langhenry presiding.

Present: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Absent: Mayor Jackson, Directors Dumas and Nichols.

Others: R. Vilkas, Acting Director, Mayor's Office of Capital Projects, Natoya Walker-Minor, Interim Director, Office of Equal Opportunity.

Tiffany White, Commissioner, Purchases & Supplies.

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

**Resolution No. 614-13.**

By Director Bender.

Whereas, under the authority of Ordinance No. 1036-07, passed by the Council of the City of Cleveland on August 8, 2007, and Board of Control Resolution No. 532-11, adopted November 9, 2011, the City, through its Director of Public Utilities, entered into City Contract No. PS2011\*304 with Black & Veatch Corporation for general IT and billing system support for the Customer Care and Billing ("CC&B") system, for a period not exceeding two years, for the Division of Water, Department of Public Utilities; and

Whereas, under Board of Control Resolution No. 533-12, adopted October 17, 2012, the Director of Public Utilities entered into a first modification to Contract No. PS2011\*304 to implement the Northeast Ohio Regional Sewer District storm water charges within the CC&B system, and to render additional IT management and technical support, on the basis of its proposal dated September 17, 2012; and

Whereas, the City desires to extend the term of City Contract No. PS2011\*304 for an additional year to November 8, 2014 to obtain additional professional services necessary to complete changes to effect separation of CWD and NEORS D billing, and integration of Electronic Bill Payment and Presentment system services for CPP, CWD and NEORS D, integration of Bill Print system services for CPP, CWD and NEORS D, implementation of mandatory year-end rate changes to the CC&B, and IT infrastructure support; and

Whereas, Black & Veatch Corporation has proposed by its letter dated September 24, 2013 ("Proposal") to perform the above-described additional services for a fee of \$1,800,000.00; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the Director of Public Utilities is authorized to enter into a second modification to City Contract No. PS2011\*304 with Black & Veatch Corporation, on the basis of its proposal dated September 24, 2013, for performance of the above-mentioned additional services, extending the contract term by one year through November 8, 2014, and increasing the contract amount by \$1,800,000.00 to \$6,210,000.00. The second modification shall be prepared by the Director of Law and shall include such additional provisions as the Director deems necessary to benefit and protect the public interest.

Be it further resolved that the participation of Om Consulting Group, LLC (CSB/MBE) as a subconsultant to Black & Veatch Corporation under City Contract No. PS2011\*304 is increased from \$450,000.00 (10.204%) to \$660,000.00 (10.628%).

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 615-13.**

By Director Bender.

Whereas, under the authority of Ordinance No. 1036-07, passed by the Council of the City of Cleveland on August 8, 2007, and Resolution No. 531-11, adopted by this Board of Control on November 9, 2011, the City through its Director of Public Utilities, entered into Contract No. CT-2002-PS2012\*010 with Rahim Inc. dba RNR Consulting to provide professional consulting services necessary to provide professional customer service systems support, including general IT support, billing system support, Cisco VoIP and call center support, business intelligence support and development, IT infrastructure support and microsoft system support, for a period not exceeding two years, for the Division of Water, Department of Public Utilities, in the amount of \$975,000.00; and

Whereas, the City desires to extend the term of City Contract No. CT-2002-PS2012\*010 for an additional year to November 8, 2014 to obtain additional professional services to enhance, integrate, and maintain the Division of Water, Department of Public Utilities customer service IT systems including, but not limited to: billing, work management, and meter reading systems; call center application; internet/intranet sites; payment processing system; and other related IT systems that support customer services and operations; and

Whereas, Rahim Inc. dba RNR Consulting has proposed by its letter dated October 3, 2013 ("Proposal") to perform the above-described additional services; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland, that the Director of Public Utilities is authorized to enter into a modification to City Contract No. CT-2002-PS2012\*010 with Rahim Inc. dba RNR Consulting, on the basis of its proposal dated October 3, 2013, for performance of the above-mentioned additional services, extending the contract term by one year through November 8, 2014, and increasing the contract amount by \$499,129.68 to \$1,474,129.68. The modification shall be prepared by the Director of Law and shall include such additional provisions as the Director deems necessary to benefit and protect the public interest.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following additional subconsultants by Rahim Inc. dba RNR Consulting for the above-mentioned additional services is approved:

<u>Subconsultant</u>	<u>Work Percentage</u>
Recess Creative, LLC (CSB)	\$ 50,000.00 3.392 %
TieBridge, Inc.	\$400,000.00 27.135 %

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.  
Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 616-13.**

By Director Bender.

Be it resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Energy Mechanical Corp., Inc. under Contract No. RC2012\*49 for labor and materials to provide maintenance, repair, enhancement and/or replacement of heating, ventilation and air conditioning systems, including rental, for a period of two years, for the various divisions of the Department of Public Utilities, is approved:

<u>Subcontractors</u>	<u>Work Percentage</u>
Facilitec, LLC	\$ 4,000.00 0.473 %
JACCO & Associates	\$20,000.00 2.365 %

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 617-13.**

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by EnviroCom Construction, LLC, under City Contract No. PS2013\*017 for the public improvement of replacing or repairing the upper level roadways at Cleveland Hopkins International Airport, authorized by Ordinance No. 274-05, passed by the Council of the City of Cleveland on May 2, 2005, and Board of Control Resolution No. 101-13, as amended by Board of Control Resolution No. 371-13, adopted March 6, 2013 and July 3, 2013, respectively, is approved.

<u>Subcontractor</u>	<u>Percentage Amount</u>
Ultra Renovations, Inc.	1.00% Non-DBE \$ 3,894.00
Forest City Erector, Inc.	1.30% Non-DBE \$13,700.00
Safway Services	0.01% Non-DBE \$ 6,970.30

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 618-13.**

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland, that under Section 571.88 of the Codified Ordinances of Cleveland, Ohio, 1976, the schedule of fees that the Director of Port Control proposes to assess and collect from parties for use and rental of meeting room space at Cleveland Hopkins International Airport, excepting those parties that Section 571.88 permits to be excepted, is set as follows:

**CLEVELAND HOPKINS INTERNATIONAL AIRPORT**

	Event Charges (Not to Exceed)
1 to 500 square feet meeting room	\$250.00 per day \$125.00 per half day \$ 50.00 per hour
501 to 1,000 square feet meeting room	\$300.00 per day \$150.00 per half day \$ 60.00 per hour
Over 1,000 square feet meeting room	\$450.00 per day \$225.00 per half day \$ 75.00 per hour

Be it further resolved by the Board of Control of the City of Cleveland, that under Section 571.88 of the Codified Ordinances of Cleveland, Ohio, 1976, the schedule of fees that the Director of Port Control proposes to assess and collect from parties for use and rental of meeting room space at Burke Lakefront Airport, excepting those parties that Section 571.88 permits to be excepted, is set as follows:

**BURKE LAKEFRONT AIRPORT**

	Event Charges (Not to Exceed)
Main Lobby/West Concourse	\$1,000.00 per day
Small Conference room	\$ 200.00 per day \$100.00 per half day
Large Conference room	\$ 250.00 per day \$150.00 per half day

Be it further resolved that Resolution No. 418-12, adopted August 22, 2012, is rescinded effective April 30, 2013, and that the rental rates shall be in force and effect for a period not to exceed one year from April 30, 2013 to April 30, 2014.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.  
Nays: None.  
Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 619-13.**

By Director Smith.  
Be it resolved by the Board of Control of the City of Cleveland that the bid of Dynatest Consulting, Inc. for the purchase of One Continuous Friction Measuring Equipment Unit, including training, for the Division of Cleveland Hopkins International Airport, Department of Port Control, received on August 16, 2013 under the authority of Ordinance No. 1054-12, passed by the Council of the City of Cleveland on October 1, 2012, which on the basis of the order quantity would amount to \$187,088.50, is affirmed and approved as the lowest and best bid; and the Director of Port Control is requested to enter into a STANDARD contract for the item.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.  
Nays: None.  
Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 620-13.**

By Director Wasik.  
Whereas, under the authority of Ordinance No. 532-12, passed by Cleveland City Council on June 4, 2012, and Board of Control Resolution No. 147-13, adopted April 3, 2013, the City, through the Director of the Office of Capital Projects, entered into Contract No. PI-2013\*38 with Chagrin Valley Paving, Inc. for the public improvement of East 72nd Street from St. Clair Avenue to the North Marginal Road, for the Division of Engineering and Construction, Office of Capital Projects, and approved various subcontractors; and

Whereas, Resolution No. 419-13, adopted July 24, 2013, approved the employment of the following additional subcontractor to Chagrin Valley Paving, Inc. under Contract No. PI-2013\*38:

Noce Enterprises, Inc. (Other)  
\$277,286.69 (29.89%);

and

Whereas, Chagrin Valley Paving, Inc. wishes to reduce the participation of Noce Enterprises, Inc. under Contract No. PI-2013\*38; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that Resolution No. 419-13, adopted July 24, 2013, under the authority of Ordinance No. 532-12, passed by Cleveland City Council on June 4, 2012, approving Chagrin Valley Paving, Inc. as the lowest responsible bidder for the public improvement of East 72nd Street from St. Clair Avenue to the North Marginal Road, for the Division of Engineering and Construction, Office of Capital Projects, is amended by changing the participation of the following approved subcontractor to the following:

Noce Enterprises, Inc. (Other)  
\$200,000.00 (21.56%)

Be it further resolved that the employment of the following additional subcontractor by Chagrin Valley Paving, Inc. for the above-mentioned public improvement contract is approved:

RMH Concrete and Foundations, Inc. (other)  
\$77,286.69 (8.33%).

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.  
Nays: None.  
Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 621-13.**

By Director Cox.  
Be it resolved, by the Board of Control of the City of Cleveland that all bids received on August 29, 2013, for the purchase of Elgin parts and labor, (rebid), all items, for the Division of Motor Vehicle Maintenance, Department of Public Works, under the authority of Section 131.64 of the Codified Ordinances of Cleveland, Ohio, 1976, are rejected.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.  
Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 622-13.**

By Director Rush.  
Whereas, Ordinance No. 1218-11, passed October 3, 2011 and Board of Control Resolution No. 381-10, adopted September 1, 2010, authorized the sale and development of Permanent Parcel Nos. 136-07-107 and 136-02-108 to Chriss Cranston for yard expansion, as part of the City Land Reutilization Program established under Ordinance No. 2076-76, passed by the Cleveland City Council on October 25, 1976; and

Whereas, in the fourth paragraph, Resolution No. 381-10 incorrectly identified the proposed purchaser of the parcel to be sold as "Chriss Cranston"; and the PPN as 136-07-107; now therefore,

Be it resolved by the Board of Control of the City of Cleveland that Resolution No. 0381-10, adopted by this Board September 1, 2010, authorizing the sale and development of Permanent Parcel Nos. 136-07-107 and 136-02-108 to Chriss Cranston for yard expansion, is amended by substituting "Cranston Chriss" for "Chriss Cranston", and amending the PPN by substituting 136-02-107 for 136-07-107 where appearing in the resolution.

Be it further resolved that all other provisions of Resolution No. 381-10 not expressly amended above shall remain unchanged and in full force and effect.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 623-13.**

By Director Rush.  
Whereas, Board of Control Resolution No. 300-13, adopted June 12, 2013, authorized the sale and development of Permanent Parcel No. 019-16-098 to Emmanuel Akateh and Margaret Nkengafac Akateh for yard expansion, as part of the City Land Reutilization Program established under Ordinance No. 2076-76, passed by the Cleveland City Council on October 25, 1976; and

Whereas, Resolution No. 300-13 only identified Permanent Parcel No. 019-16-098; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that Resolution No. 300-13, adopted by this Board June 12, 2013, authorizing the sale and development of Permanent Parcel No. 019-16-098 to Emmanuel Akateh and Margaret Nkengafac Akateh for yard expansion, is amended by also adding "and Permanent Parcel No. 019-16-099" after "Permanent Parcel No. 019-16-098" where the latter appears in the resolution.

Be it further resolved that all other provisions of Resolution No. 300-13 not expressly amended above shall remain unchanged and in full force and effect.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.  
Nays: None.  
Absent: Mayor Jackson, Directors Dumas and Nichols.



**Resolution No. 624-13.**

By Director Rush.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 660-13, passed by the Council of the City of Cleveland May 20, 2013, as amended by Ordinance No. 1300-13, passed on October 14, 2013, Cathy Sabolik is selected from a list of qualified consultants determined after a full and complete canvass by the Director of Community Development as the consultant to be employed by contract to supplement the regularly employed staff of several departments of the City of Cleveland to perform the professional services necessary to provide technical assistance to Storefront Renovation Program applicants located in certain areas of the city, for the Division of Neighborhood Development, Department of Community Development.

Be it further resolved that the Director of Community Development is authorized to enter into contract with Cathy Sabolik, based on its proposal dated May 31, 2013, which contract shall be prepared by the Director of Law, shall provide for the furnishing of professional services as described in the proposal for an aggregate fee of \$44,000, and shall contain such additional provisions as the Director of Law deems necessary to protect and benefit the public interest.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 625-13.**

By Director Rush.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 660-13, passed by the Council of the City of Cleveland May 20, 2013, as amended by Ordinance No. 1300-13, passed on October 14, 2013, Carolyn Smith is selected from a list of qualified consultants determined after a full and complete canvass by the Director of Community Development as the consultant to be employed by contract to supplement the regularly employed staff of several departments of the City of Cleveland to perform the professional services necessary to provide technical assistance to Storefront Renovation Program applicants located in certain areas of the city, for the Division of Neighborhood Development, Department of Community Development.

Be it further resolved that the Director of Community Development is authorized to enter into contract with Carolyn Smith, based on its proposal dated May 31, 2013, which contract shall be prepared by the Director of Law, shall provide for the furnishing of professional services as described in the proposal for an aggregate fee of \$44,000, and shall contain such additional provisions as the Director of Law deems necessary to protect and benefit the public interest.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

**Resolution No. 626-13.**

By Director Rush.

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

Whereas, under the Program, the City has acquired Permanent Parcels No. 108-13-119, 108-13-120, 108-13-121, 108-13-122, 108-13-123, 108-14-007, 108-14-045, 108-14-046, 108-29-066, 108-29-067, 108-29-068, 108-30-015, 108-30-016, 109-21-106, 109-21-017, 109-21-018, 109-21-019, 109-21-020, 109-21-117, 110-29-048, 110-29-049 and 110-29-053 located in various locations in Ward 9; 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; and

Whereas, Northeast Ohio Regional Sewer District has proposed to the City to purchase and develop the parcels for commercial/industrial open space; and

Whereas, the following conditions exist:

1. The member of Council from Ward 9 has approved the proposed sale or has not disapproved or requested a hold of the proposed sale within 45 days of notification of it;

2. The proposed purchaser of the parcels is 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 under Section 183.021 of the 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 requested, to execute an Official Deed for and on behalf of the City of Cleveland, with Northeast Ohio Regional Sewer District for the sale and development of Permanent Parcels No. 108-13-119, 108-13-120, 108-13-121, 108-13-122, 108-13-123, 108-14-007, 108-14-045, 108-14-046, 108-29-066, 108-29-067, 108-29-068, 108-30-015, 108-30-016, 109-21-106, 109-21-017, 109-21-018, 109-21-019, 109-21-020, 109-21-117, 110-29-048, 110-29-049 and 110-29-053 located in various locations according to the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for the sale of all the parcels shall be \$96,350.00, which amount is determined to be not less than the fair market value of the parcels for uses according to the Program.

Yeas: Directors Langhenry, Bender, Smith, Cox, Butler, Acting Director Gehlmann, Directors Rush, Southerington, Fumich and Rybka.

Nays: None.

Absent: Mayor Jackson, Directors Dumas and Nichols.

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 slated 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 commission 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.

ROBERT BENNETT,  
President

**SCHEDULE OF THE BOARD OF ZONING APPEALS****MONDAY, NOVEMBER 11, 2013****9:30 A.M.**

**Calendar No. 13-227:** 806 Literary Road (Ward 3)

Sandy Banks, LLC, owner, and Jeffrey Rutushin, agent, appeal to expand an existing bar/restaurant to the basement in a one and two story building on an irregular shaped parcel in a C1 General Retail Business District; providing no off-street parking contrary to Section 349.04(f) and required additional parking at the rate of one space per four seats; the added 29 additional occupants for the basement requiring an additional nine off-street parking spaces; and the expansion of a nonconforming use is subject to the Board of Zoning Appeals approval, according to the provisions under Section 359.01 in the Cleveland Codified Ordinances.

**Calendar No. 13-233:** 927 East 123rd Street (Ward 9)

Paul McPherson, owner, appeals to establish use for a barber shop and beauty salon in a one-story building located on a 110' x 103' corner parcel in a C1 Local Retail Business District; subject to the requirements under Section 349.07(b) accessory off-street parking spaces shall be provided with bumper guards; and pursuant to Sections 352.09-11, an 8 feet wide, heavy landscaping transition strip is required with a minimum of 75% year-round opacity; and parking in the required side street yard is not

a permitted encroachment according to Section 357.13(b) and fences in actual front and side street yards in non-residence districts may not exceed a height of 4 feet according to Section 358.05(a)(2) in the Cleveland Codified Ordinances.

**Calendar No. 13-236:** 4113 East 71st Street (Ward 12) Gerald Durante, owner, and Elrico Lynch, prospective tenant, appeal to establish use for piercing and tattooing in a mixed use building located on a 72.66' x 115' parcel in a C1 General Retail Business District; where the proposed use abuts a residence district and must be at least a distance of 1,000 feet pursuant to Section 347.12(b)(1); and proposing no landscaping contrary to Sections 352.08-12 that require a 10 feet wide landscaped transition strip providing 75% year-round opacity where the use abuts a residence district; and under the provisions in Section 352.07(b) the Board of Zoning Appeals must determine if existing nonconformity in landscaping may continue.

**Calendar No. 13-237:** 1891 East 93rd Street (Ward 7) The Cleveland Clinic, owner, appeals to create three (3) parking spaces to be added on an existing parking lot located in an E3 Multi-Family District; subject to the provisions under Section 357.13(b)(1) in the Cleveland Codified Ordinances, parking is not a permitted encroachment in the required front yard setback.

Secretary

**REPORT OF THE BOARD OF ZONING APPEALS**

**MONDAY, OCTOBER 28, 2013**

At the meeting of the Board of Zoning Appeals on Monday, October 28, 2013, the following appeals were scheduled for hearing before the Board.

The following appeals were **APPROVED:**

**Calendar No. 13-221:** 15800 Norway Avenue Mark and Tracy Benton appealed to install 72 linear feet of wooden fence 8 feet high in the rear yard of a parcel in an A1 One-Family District.

**Calendar No. 13-199:** 1130 Ivanhoe Road The 1130 Ivanhoe Road Group, LLC appealed to use property for storage, processing, including shredding, of construction/demolition debris, scrap and salvage material in a Semi-Industry District.

The following appeal was **DENIED:**

**Calendar No. 13-226:** International Union of Operating Engineers Local 18 The International Union of Operating Engineers Local 18 appealed from a decision of the City of Cleveland Planning Commission to deny a request for a demolition permit for its property at 3600 Euclid Avenue.

The following appeal was **WITHDRAWN:**

None.

The following appeal was **DISMISSED:**

**Calendar No. 13-82:** 16569 St. Clair Avenue Calabrese Cement & Masonry Contractors, owner, appeals to establish use for outside storage/stockpiling of dirt and rock on irregular shaped, corner acreage in split zoning between C2 Semi-Industry and B3 General Industry Districts.

The following appeal was **POSTPONED:**

**Calendar No. 13-219:** 4931 State Road postponed to December 2, 2013.

By approval of a Motion the following appeal is set for **REHEARING:**

**Calendar No. 13-222:** 1843 Fulton Road scheduled to November 18, 2013.

The following appeals heard by the Board on October 21, 2013 were adopted and approved on October 28, 2013.

The following appeals were **APPROVED:**

**Calendar No. 13-216:** 2163 West Boulevard Cuyahoga County Land Bank, owner, and Jason Brooks, prospective purchaser, appealed to erect an open, wooden front porch to a one family dwelling in a B1 Two-Family District.

**Calendar No. 13-217:** 7005 Clement Avenue Greater Cleveland Habitat for Humanity, Incorporated appealed to erect a two-story rear room addition to a one family dwelling in a B1 Two-Family District.

**Calendar No. 13-220:** 1417 East 25th Street Cement Masons Local 404 appealed to install approximately 202 linear feet of 6 feet high chain link fence in actual front and side street yards in a C1 Multi-Family District.

**Calendar No. 13-141:** 3630 Trowbridge Avenue Richfield Sunset, LLC, owner, and Melissa Martinez, prospective tenant, appealed to establish use as a child care facility in a one-story building located in a B1 Two-Family District; subject to conditions.

Secretary

**REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS**

Re: Report of the Meeting of October 23, 2013

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-190-13.**

RE: Appeal of Aeon Financial, LLC, Owner of the One Dwelling Unit Single-Family Residence One & One/half Story Frame and One Story Garage - Detached; Masonry Property, located on the premises known as 7315 Lawn Avenue from a CONDEMNATION ORDER - MAIN STRUCTURE & GARAGE, dated May 29, 2012 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-190-13 has been WITHDRAWN at the request of the Appellant.

\* \* \*

**Docket A-191-13.**

RE: Appeal of Aeon Financial, LLC, Owner of the One Dwelling Unit Single-Family Residence Two Story Frame Property, located on the premises known as 3297 East 147th Street from a CONDEMNATION ORDER - MAIN STRUCTURE, dated January 3, 2013 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-191-13 has been WITHDRAWN at the request of the Appellant.

\* \* \*

**Docket A-192-13.**

RE: Appeal of Becky Jaajaa, Owner of the One Dwelling Unit Single-Family Residence Two Story Wood Frame/Siding/Masonry Veneer Property, located on the premises known as 6515 Wakefield Avenue from a CONDEMNATION ORDER - MAIN STRUCTURE, dated June 20, 2013 of the Director of the Department of Building and Housing, 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 require the Appellant to clean up the outside of the property in a presentable manner within two (2) weeks, and to grant the Appellant four (4) weeks in which to obtain all required permits and six (6) months in which to complete abatement of the violations, noting that failure to meet any of these dates will REMAND the property immediately; 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. Saab and seconded by Mr. Maschke.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**Docket A-204-13.**

RE: Appeal of Aeon Financial, LLC, Owner of the Two Dwelling Units Two-Family Residence One &

One/half Story Frame Property, located on the premises known as 6404 Fullerton Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated April 28, 2011 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-204-13 has been WITHDRAWN at the request of the Appellant.

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**Docket A-205-13.**

RE: Appeal of Aeon Financial, LLC, Owner of the One Dwelling Unit Single-Family Residence One & One/half Story Frame Property, located on the premises known as 3541 Trowbridge Avenue from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated July 10, 2013 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-205-13 has been WITHDRAWN at the request of the Appellant.

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**Docket A-206-13.**

RE: Appeal of Aeon Financial, LLC, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property, located on the premises known as 9416 Manor Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated September 26, 2012 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-206-13 has been WITHDRAWN at the request of the Appellant.

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**Docket A-207-13.**

RE: Appeal of Halima Omar, Owner of the Residential Property, located on the premises known as 5904 Bridge Avenue from a LIMITATION ON THE PERMITS, dated February 14, 2013 of the Director of the Department of Building and Housing, 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 Appellant thirty (30) days in which to complete abatement of the violations, noting that the work has been completed and submitted for a Certificate of Occupancy; 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. Saab and seconded by Mr. Maschke.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**Docket A-208-13.**

RE: Appeal of Robert Hunter, Owner of the Residential Property,

located on the premises known as 735 Parkwood Drive from a LIMITATION ON THE PERMITS, dated February 14, 2013 of the Director of the Department of Building and Housing, 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 Appellant three (3) months in which to complete abatement of the violations, noting that additional time may be awarded at the discretion of the inspector; 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. Bradley and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**Docket A-209-13.**

RE: Appeal of Karen O'Toole, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property, located on the premises known as 393 East 147th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated July 2, 2013 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-209-13 has been POSTPONED; to be rescheduled for November 6, 2013.

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**Docket A-212-13.**

RE: Appeal of St. Peter Parish C/O Most Rev. Richard G. Lennon, Owner of the A-3 Assembly - Recreation or Religious Facilities Three Story Masonry Walls/Wood Floors Semi-Industry Property, located on the premises known as 1533 East 17th Street from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated July 17, 2013 of the Director of the Department of Building and Housing, 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 Appellant sixty (60) days in which to complete abatement of 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. Bradley and seconded by Mr. Maschke.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**Docket A-213-13.**

RE: Appeal of Aeon Financial, LLC, Owner of the One Dwelling Unit Single-Family Residence One & One/half Story Frame and One Story Garage - Detached; Wood Frame Property, located on the premises

known as 4266 East 160th Street from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated February 14, 2012 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-213-13 has been WITHDRAWN at the request of the Appellant.

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**Docket A-214-13.**

RE: Appeal of HSBC Bank USA National Association, Owner of the One Dwelling Unit Single-Family Residence One & One/half Story Masonry Property, located on the premises known as 9629 Thorn Avenue from a NOTICE OF VIOLATION — INTERIOR/EXTERIOR MAINTENANCE, dated June 14, 2013, and Two & One/half Story Masonry Garage Property from a CONDEMNATION ORDER — GARAGE, dated July 17, 2013 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-214-13 has been POSTPONED; to be rescheduled for November 6, 2013.

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**Docket A-215-13.**

RE: Appeal of Eleanor E. Taylor, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property, located on the premises known as 3676 East 147th Street from a VACATE ORDER, dated July 23, 2013, from a NOTICE OF VIOLATION — HAZARDOUS CONDITIONS, dated July 17, 2013, and from a CONDEMNATION ORDER — GARAGE, dated July 17, 2013 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-215-13 has been POSTPONED; to be rescheduled for November 6, 2013.

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**Docket A-216-13.**

RE: Appeal of West 25th Street Lofts, LLC, Owner of the Property, located on the premises known as 1526 West 25th Street from an ADJUDICATION ORDER, dated July 30, 2013 of the Director of the Department of Building and Housing, 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 variance and permit the existing doors to swing into the right-of-way approximately three (3) feet onto the sixteen (16) foot sidewalk, noting the concurrence of the City and the fact that the main entrances are needed of these doors. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Maschke.

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



**Docket A-217-13.**

RE: Appeal of Judith Hanf, Owner of the One Dwelling Unit Single-Family Residence Two & One-half Story Frame Property, located on the premises known as 9629 Thorn Avenue from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated July 30, 2013 of the Director of the Department of Building and Housing, 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 Appellant six (6) months in which to abate the violations, with concentration on the exterior of the property that the neighborhood has to view and to make the property weather-tight; 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. Saab and seconded by Mr. Bradley.

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

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**Docket A-219-13.**

RE: Appeal of M. Loretta Cofield, Owner of the One Dwelling Unit Single-Family Residence One Story Garage - Detached; Property, located on the premises known as 4749 East 173th Street from a NOTICE OF VIOLATION — FIRE DAMAGE, dated July 22, 2013 of the Director of the Department of Building and Housing, 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 Appellant ninety (90) days in which to complete abatement of 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. Bradley and seconded by Mr. Maschke.

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

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**Docket A-253-13.**

RE: Appeal of Ernest DeNardy, Owner of the One Dwelling Unit Single-Family Residence Two & One-half Story Wood Property, located on the premises known as 4829 Ardmore Avenue from a VACATE ORDER, dated September 30, 2013 of the Director of the Department of Building and Housing, 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 find that based upon the photographic evidence and testimony presented, to enforce the VACATE ORDER immediately and DENY the request for additional time because of the condition of the property, and that the City is ready to assist the Appellant in relocation; 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. Bradley and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**Docket A-262-13.**

RE: Appeal of David Humphrey, Owner of the Property, located on the premises known as 1122 Prospect Avenue from an ADJUDICATION ORDER, dated October 11, 2013 of the Director of the Department of Building and Housing, 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 variance and permit the balcony to be constructed as proposed and to allow it to remain should the properties be divided or sold in view of the architectural problems associated with the property, and to require that the easement be recorded and carried forward. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**EXTENSION OF TIME:**

**Docket A-315-12** - Geoffrey Griffin - 9402 Nelson Avenue:

A motion is in order at this time to require the permits to be reactivated up to three (3) months and additional time may be granted up to a total of six (6) months if progress is being made; 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. Bradley and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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**APPROVAL OF RESOLUTIONS:**

Separate motions were entered by Mr. Bradley and seconded by Mr. Maschke for Approval respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-177-13 — Cleveland Metro. Schools
- A-179-13 — St. Clair Superior Dev. Corp.
- A-184-13 — Todd J. Knight
- A-186-13 — Shirley Collier & Charles Lawrence
- A-189-13 — Michael Benigni
- A-197-13 — Bryan Shepherd
- A-198-13 — Jesse V. Dickerson
- A-203-13 — Mary D. Hopkins

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

Separate motions were entered by Mr. Saab and seconded by Mr. Bradley for Approval respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-194-13 — Dorothy E. Talbott
- A-199-13 — Preferred Property Services, LLC
- A-255-13 — Wilson Luu

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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Separate motions were entered by Mr. Maschke and seconded by Mr. Bradley for Approval respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-200-13 — Ojala Properties LLC
- A-201-13 — Ojala Properties LLC

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

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**APPROVAL OF MINUTES:**

Separate motions were entered by Mr. Maschke and seconded by Mr. Saab 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):

October 9, 2013

Yeas: Messrs. Denk, Saab, Bradley, Maschke Nays: None Absent: Mr. Gallagher

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JOSEPH F. DENK  
Chairman

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**PUBLIC NOTICE**

NONE

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**NOTICE OF PUBLIC HEARING**

NONE

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**CITY OF CLEVELAND BIDS**

**For All Departments**

**Sealed 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. Failure 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, NOVEMBER 20, 2013

**File No. 174-13 — Sewer Test Tee Inspection, Installation and Snaking**, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Section 541.13 of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A MANDATORY PRE-BID MEETING FRIDAY, NOVEMBER 8, 2013 AT 11:00 A.M. THE DIVISION OF WATER POLLUTION CONTROL, 12302 KIRBY AVENUE, RED ROOM, CLEVELAND, OHIO 44108.

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

October 30, 2013 and November 6, 2013

FRIDAY, NOVEMBER 22, 2013

**File No. 173-13 — Pneumatic Tire Tow Motors and Related Equipment**, for the Division of Motor Vehicle Maintenance, Department of Public Works, as authorized by Ordinance No. 943-11, passed by the Council of the City of Cleveland, July 20, 2011.

THERE WILL BE A NON-MANDATORY PRE-BID MEETING THURSDAY, NOVEMBER 7, 2013 AT 10:00 A.M. MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, CLEVELAND, OHIO 44105.

October 30, 2013 and November 6, 2013

WEDNESDAY, NOVEMBER 27, 2013

**File No. 175-13 — The Purchase of Two (2) New or Remanufactured Six (6) Cylinder Diesel Engines That are EPA Tier 3 Approved, to be Installed and to Replace Two (2) Caterpillar 3408B Engines Installed in Airport Snow Blowers Code Numbers 167H27 and 167H28**, for the Divi-

sion of Vehicle Maintenance, Department of Port Control, as authorized by Section 181.101 of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A NON-MANDATORY PRE-BID MEETING WEDNESDAY, NOVEMBER 13, 2013 AT 10:00 A.M. THE CLEVELAND HOPKINS INTERNATIONAL AIRPORT'S RECEIVING BUILDING, 19451 FIVE POINTS ROAD, CLEVELAND, OHIO 44135-3193.

October 30, 2013 and November 6, 2013

### ADOPTED RESOLUTIONS AND ORDINANCES

**Res. No. 1438-13.**

**By Council Member Brady.**

An emergency resolution withdrawing objection to the transfer of ownership of a D5 Liquor Permit at 3349 West 117th Street, 1st floor and rear, and repealing Resolution No. 1166-13, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a D5 Liquor Permit to 3349 West 117th Street, 1st floor and rear, Cleveland, Ohio 44111, Permanent No. 1428979 by Resolution No. 1166-13 adopted by the Council on August 14, 2013; 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 D5 Liquor Permit to Chief's Headquarters, Inc., DBA HQ Lounge, 3349 West 117th Street, 1st floor and rear, Cleveland, Ohio 44111, Permanent No. 1428979, be and the same is hereby withdrawn and Resolution No. 1166-13, 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 October 21, 2013.  
Effective October 24, 2013.

**Res. No. 1443-13.**

**By Council Member Kelley.**

An emergency resolution withdrawing objection to the transfer of ownership of a D5 Liquor Permit at 4301 State Road and Patio, and repealing Resolution No. 1208-13, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a D5 Liquor Permit to 4301 State Road and Patio, Cleveland, Ohio 44109, Permanent No. 8725043 by Resolu-

tion No. 1208-13 adopted by the Council on September 16, 2013; 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 D5 Liquor Permit to Swagger Tavern, LLC, 4301 State Road and Patio, Cleveland, Ohio 44109, Permanent No. 8725043, be and the same is hereby withdrawn and Resolution No. 1208-13, 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 October 21, 2013.  
Effective October 24, 2013.

**Res. No. 1448-13.**

**By Council Members Polensek, Sweeney, Zone, Mitchell, Kelley, Westbrook, Cummins, Brady, Brancatelli, Cimperman, Cleveland, Conwell, Dow, J. Johnson, K. Johnson, Keane, Miller, Pruitt and Reed.**

An emergency resolution supporting H.B. 274, also known as "Goddard's Law" which will toughen Ohio's companion animal abuse laws.

Whereas, currently in Ohio, abuse of animals is only a first degree misdemeanor, an absurd and often meaningless penalty which, in most cases means little or no jail time; and

Whereas, State Representative Bill Patmon, along with Dick Goddard and the Public Animal Welfare Society are advocates of tougher animal cruelty laws in Ohio;

Whereas, Representative Patmon is a sponsor of House Bill 274, or "Goddard's Law" which will toughen Ohio's companion animal abuse laws by making it a felony to knowingly cause serious physical harm to a companion animal; 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 supports H.B. 274, also known as "Goddard's Law" which will toughen Ohio's companion animal abuse laws.

**Section 2.** That the Clerk of Council is directed to transmit copies of this resolution to Governor John Kasich, Ohio House Representative Bill Patmon, William Batchelder, Speaker of the Ohio House of Representatives, Keith Faber, President of the Ohio Senate, and to those representatives and senators in the Ohio legislature representing northeast Ohio.

**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 October 21, 2013.  
Effective October 24, 2013.

**Ord. No. 1353-13.**

**By Council Member Miller.**

**An emergency ordinance to amend Sections 619.08 and 619.09 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 773-87, passed June 16, 1987, relating to penalties for procuring and soliciting prostitution.**

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 Sections 619.08 and 619.09 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 773-87, passed June 16, 1987, are hereby amended to read as follows:

**Section 619.08 Procuring**

(a) No person, knowingly and for gain, shall do either of the following:

(1) Entice or solicit another to patronize a prostitute or brothel;

(2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire. (RC 2907.23)

(c) Whoever violates this section is guilty of procuring, a misdemeanor of the first degree. Notwithstanding any other section of this Code:

(1) At least thirty (30) days' imprisonment and a fine of at least four hundred fifty dollars (\$450.00) is mandatory upon conviction of a first offense under this section;

(2) At least sixty (60) days' imprisonment and a fine of four hundred fifty dollars (\$450.00) is mandatory upon conviction of a second offense; and

(3) At least ninety (90) days' imprisonment and a fine of four hundred fifty dollars (\$450.00) is mandatory upon conviction of a third or any subsequent offense under this section.

**Section 619.09 Soliciting**

(a) No person shall solicit another to engage with such other person in sexual activity for hire. This section forbids the solicitations of paid sexual activity, whether the solicitor is the one buying or selling his or her favors. (RC 2907.24)

(b) Whoever violates the provisions of this section is guilty of soliciting, a misdemeanor of the first degree. Notwithstanding any other section of this Code:

(1) At least ten (10) days' imprisonment and a fine of at least four hun-

dred fifty dollars (\$450.00) is mandatory upon conviction of a first offense under this section.

(2) At least twenty (20) days' imprisonment and a fine of four hundred fifty dollars (\$450.00) is mandatory upon conviction of a second offense; and

(3) At least thirty (30) days' imprisonment and a fine of four hundred fifty dollars (\$450.00) is mandatory upon conviction of a third or any subsequent offense under this section.

**Section 2.** That Sections 619.08 and 619.09 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 773-87, passed June 16, 1987, are hereby repealed.

**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 October 21, 2013.  
Effective October 24, 2013.

**Ord. No. 1385-13.**

**By Council Members Conwell and Kelley (by departmental request).**

**An emergency ordinance authorizing the Director of Public Safety to enter into one or more contracts with ZOLL Data Systems for the acquisition of one or more Rescue Net ePCR Suite and Rescue Net Fire RMS software licenses to implement a records management system, including training, data migration, project management, deployment services, maintenance, technical support, and other related services, for a period of one year after the warranty on the software expires, for the Division of Fire, 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 enter into one or more contracts with ZOLL Data Systems for the acquisition of one or more Rescue Net ePCR Suite and Rescue Net Fire RMS software licenses to implement a records management system, including training, data migration, project management, deployment services, maintenance, technical support, and other related services, for a period of one year after the warranty on the software expires, on the basis of its proposal dated September 20, 2013, in the total sum of \$178,435, for the Division of Fire, Department of Public Safety. The contract or contracts shall be paid from Fund Nos. 20 SF 553 and 11 SF 006, RQS 6001, RL 2013-152.

**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 October 21, 2013.  
Effective October 24, 2013.

**Ord. No. 1402-13.**

**By Council Members Keane, Pruitt, K. Johnson, Kelley and Mayor Jackson.**

**An emergency ordinance to amend Section 9 of Ordinance No. 683-09, passed May 18, 2009, relating to the sale of the Convention Center and Malls B and C to the County to develop a Medical Mart, and authorizing the Director of Finance to enter into a Donor Advised Agreement with the Cleveland Foundation in order to establish, manage, and implement a City College Scholarship Fund for City residents.**

Whereas, among other things, Ordinance No. 683-09, passed May 18, 2009, related to the sale of the Convention Center and Malls B and C to the County to develop a Medical Mart, and authorized the Director of Finance to enter into an agreement with a local foundation to manage a City College Scholarship Fund established by the foundation for graduates of the Cleveland Metropolitan School District to be funded from a portion of the proceeds of the sale of the Convention Center and Malls B and C; and

Whereas, through an Agreement, the City desires to specify the Cleveland Foundation as the local foundation to establish, manage, and implement a City of Cleveland Scholarship Fund; and

Whereas, under that Agreement, the City will transmit to the Cleveland Foundation up to \$2 million dollars for that purpose; 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 title and Section 9 of Ordinance No. 683-09, passed May 18, 2009, are amended to read as follows:

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use located at 500 Lakeside Avenue, also known as 1220 East 6th Street, The Convention Center and Malls B and C to the County of Cuyahoga, for purposes of developing a Medical Mart facility; authorizing the Director of Parks, Recreation and Properties to reserve certain easement interests in Malls B and C for the purpose of creating and maintaining public park space; authorizing the Director to enter into one or more agreements with the Commissioners of Cuyahoga County regarding the redevelopment of the property; and authorizing the Director of Finance to enter into a Donor Advised Agreement with the Cleveland Foundation to establish, manage, and implement a City of Cleveland Scholarship Fund for City residents; and authorizing the Director of Public Service to issue a permit to Cuyahoga County Commissioners, or their designee, to encroach above, upon and below public rights-of-way immediately adjacent to and within the areas described in this ordinance.

**Section 9.** That assisting Cleveland's high school graduates to defray the cost of up to four years of their college education will have a significant positive impact on our City by better preparing our youth to be successful in life, by attracting families to stay in and move to the City, and by providing Cleveland employers with a better education



and more skilled workforce. For this reason, the Director of Finance is authorized to enter into a Donor Advised Agreement with the Cleveland Foundation in the amount of \$2 million dollars to establish, manage, and implement the City of Cleveland Scholarship Fund in order to meet the objectives of this section using a portion of funds received from the sale of the Convention Center and Malls B and C as authorized by this ordinance. The Donor Advised Agreement shall be substantially in the same form as the Agreement contained in File No. 1402-13-A. The cost of establishing, managing, and implementing the Scholarship Fund shall not exceed \$2,000,000 and shall be paid from Fund No. 10 SF 120 (RQS 0117, RL 2013-158).

**Section 2.** That the existing title and Section 9 of Ordinance No. 683-09, passed May 18, 2009, 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 October 21, 2013.  
Effective October 24, 2013.

**Ord. No. 1413-13.**  
**By Council Members Conwell and Kelley (by departmental request).**  
**An emergency ordinance authorizing the purchase by one or more**

**requirement contracts of body cameras, including upgrades and replacement of damaged or obsolete equipment, managed storage, software updates, training, support, warranty, and maintenance for a period of one year, with a one-year option to renew, exercisable by the Director 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 requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements of the necessary items of body cameras and ancillary equipment, including upgrades and replacement of damaged or obsolete equipment, managed storage, software updates, and training for a one year period, with a one-year option to renew exercisable by the Director of Public Safety, and for maintenance and support agreements for the body cameras and ancillary equipment obtained under the authority of this ordinance for a period of one year once the warranty for body cameras and ancillary equipment has expired, 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 Division of Police, 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 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 any purchase under the contract, each of which purchases shall be made on order of the Commissioner of Purchases and Supplies by a delivery order issued against the contract or contracts and certified by the Director of Finance. (RQN 6001, RL 2013-39)

**Section 3.** That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative arrangements with other governmental agencies. The Director of Public Safety may sign all documents that are necessary to make the purchases, 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 October 21, 2013.  
Effective October 24, 2013.

**Ord. No. 1437-13.**  
**By Council Member Kelley (by departmental request).**  
**An emergency ordinance To amend Sections 47 and 49 of Ordinance No. 1689-11, passed November 28, 2011, as amended, relating to compensation for various classifications.**

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 Ordinance No. 1689-11, passed November 28, 2011:

Section 47, as amended by Ordinance No. 878-12, passed July 11, 2012, Ord. No. 1045-12, passed August 8, 2012, and Ordinance No. 121-13, passed July 28, 2013, and Ordinance No. 1344-13, passed September 23, 2013; and

Section 49, as amended by Ordinance No. 878-12, passed July 11, 2012, are amended to read as follows:

**Section 47. Hourly Rate - Building & Construction Trades Council**

Compensation for all persons employed by the hour in any of the following classifications shall be fixed by the appointing authority within the limits established in the following schedule for each classification:

	Effective Date	Minimum	Maximum
1. Asbestos Worker (Insulator) .....	8/1/13	\$44.30	\$55.38
2. Boiler Maker.....	1/1/13	47.49	59.36
3. Bricklayer .....	5/1/13	36.43	45.54
4. Bricklayer Foreman.....	5/1/13	37.68	46.54
5. Carpenter.....	5/1/13	36.13	45.15
6. Carpenter Foreman.....	5/1/13	37.37	46.30
7. Cement Finisher.....	5/1/13	36.67	45.84
8. Cement Finisher Foreman.....	5/1/13	37.92	46.59
9. Electrical Worker.....	4/29/13	45.13	56.41
10. Electrical Worker Foreman.....	4/29/13	46.38	57.56
11. Glazier.....	5/1/13	35.29	44.11
12. Ironworker.....	5/1/13	41.13	51.41
13. Ironworker Foreman.....	5/1/13	42.38	53.91
14. Painter.....	6/3/13	31.86	39.82
15. Painter Foreman.....	6/3/13	33.11	40.82
16. Pipefitter (Welder) .....	5/1/13	44.14	55.17
17. Pipefitter Foreman.....	5/1/13	45.39	55.67
18. Plasterer .....	5/1/13	35.46	44.33
19. Plasterer Foreman.....	5/1/13	36.71	45.83
20. Plumber (Welder).....	5/1/13	44.18	55.23

21.	Plumber Foreman .....	5/1/13	45.43	56.73
22.	Roofer.....	4/28/13	36.72	45.90
23.	Sheet Metal Worker.....	5/1/13	45.23	56.54
24.	Sheet Metal Worker Foreman.....	5/1/13	46.48	58.64

**Section 49. Hourly Rate - MCEO**

Effective May 1, 2012, compensation for all persons employed by the hour in any of the following classifications shall be fixed by the appointing authority within the limits established in the following schedule for each classification:

	<b>Minimum</b>	<b>Maximum</b>
1. Construction Equipment - Group A .....	\$38.92	\$48.65
2. Construction Equipment - Group B .....	\$38.80	\$48.50
3. Master Mechanic.....	\$39.30	\$49.12

**Section 2.** That the following Sections of Ordinance No. 1689-11, passed November 28, 2011:

Section 47, as amended by Ordinance No. 878-12, passed July 11, 2012, Ord. No. 1045-12, passed August 8, 2012, and Ordinance No. 121-13, passed July 28, 2013, and Ordinance No. 1344-13, passed September 23, 2013; and

Section 49, as amended by Ordinance No. 878-12, passed July 11, 2012, 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 October 21, 2013.

Effective October 24, 2013.

**Ord. No. 1439-13.**

**By Council Member Sweeney.**

An emergency ordinance authorizing the Director of the Department of Community Development to enter into an agreement with the Bellaire Puritas Development Corporation for the West 138th Street San Diego Community Garden Project through the use of Ward 18 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 the Department of Community Development be authorized to enter into an agreement effective October 16, 2013 with the Bellaire Puritas Development Corporation for the West 138th Street San Diego Community Garden Project for the public purpose of promoting urban farming and community gardening activities for city of Cleveland residents through the use of Ward 18 Neighborhood Equity Funds.

**Section 2.** That the cost of said contract shall be in an amount not to exceed \$1,000 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 October 21, 2013.

Effective October 24, 2013.

**Ord. No. 1440-13.**

**By Council Member Cimperman.**

An emergency ordinance authorizing the Director of the Department of Community Development to enter into an agreement with the Downtown Cleveland Residents Association or with its fiscal agent Historic Gateway Neighborhood Corporation for the Promoting Downtown Cleveland Program through the use of Ward 3 Casino Revenue 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 the Department of Community Development is authorized to enter into an agreement with the Downtown Cleveland Residents Association or with its fiscal agent Historic Gateway Neighborhood Corporation for the Promoting Downtown Cleveland Program for the public purpose of promoting Cleveland's downtown district for commercial and residential reinvestment through the use of Ward 3 Casino Revenue Funds.

**Section 2.** That the cost of said contract shall be in an amount not to exceed \$10,000 and shall be paid from Fund No. 10 SF 188.

**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 October 21, 2013.

Effective October 24, 2013.

**COUNCIL COMMITTEE MEETINGS**

**Monday, October 28, 2013  
9:30 a.m.**

**Public Service Committee:** Present: Miller, Chair; Cleveland, K. Johnson, Pruitt, Sweeney. *Authorized Absence:* Cummins, Vice Chair; Dow, Keane, Polensek.

**2:00 p.m.**

**City Planning Committee & Finance Committee:** Present in Planning: Cleveland, Chair; Westbrook, Vice Chair; Conwell, Keane, Zone. *Authorized Absence:* Brady, Dow. *Pro tempore:* Kelley, Pruitt. Present in Finance: Kelley, Chair; Brady, Brancatelli, Cleveland, Keane, Miller, Mitchell, Pruitt, Westbrook, Zone. *Authorized Absence:* Sweeney, Vice Chair.

**Finance Committee:** Present: Kelley, Chair; Sweeney, Vice Chair; Brady, Brancatelli, Cleveland, Keane, Miller, Mitchell, Pruitt, Westbrook, Zone.

**Tuesday, October 29, 2013  
9:30 a.m.**

**Community and Economic Development Committee:** Present: Brancatelli, Chair; Cimperman, J. Johnson, Pruitt, Westbrook, Zone. *Authorized Absence:* Cummins. *Unauthorized Absence:* Dow, Vice Chair; Miller.

**Wednesday, October 30, 2013  
10:00 a.m.**

**Public Safety Committee:** Present: Conwell, Chair; Polensek, Vice Chair; Brady, Cleveland, Cummins, Mitchell, Miller, Zone. *Authorized Absence:* Dow.

**1:30 p.m.**

**Public Utilities Committee:** Present: Pruitt, Chair; Brady, Vice Chair; Cummins, Kelley, Miller, Polensek, Westbrook. *Authorized Absence:* Conwell, Dow.

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O—Ordinance; R—Resolution; F—File  
 Bold figures—Final Publication; D—Defeated; R—Reprint; T—Tabled; V—Vetoed;  
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