

# The City Record

Official Publication of the Council of the City of Cleveland



April the Seventeenth, 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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[www.clevelandcitycouncil.org](http://www.clevelandcitycouncil.org)

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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

### MAJOR – 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  
 Andrea V. Taylor, Executive Assistant to the Mayor, Press Secretary  
 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 Vilkas, 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 – James E. Hardy, 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 – Barry A. Withers, 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 Zoghba, 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 – Antonette Thompson, Interim Commissioner  
 Property Management – Tom Nagle, Commissioner  
 Recreation – Samuel Gissentaner, Interim Commissioner  
 Streets – \_\_\_\_\_, Commissioner  
 Traffic Engineering – Robert Mavec, Commissioner  
 Waste Collection and Disposal – Randall 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 – Edward Eckart, Commissioner, 1708 South Pointe Drive  
 Fire – Paul A. Stubbs, 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 Whitt.

**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** – Service 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 Barry A. Withers; 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, Michael Rastatter, Jr., John Torres, N. Kurt Wiebusch, Robert Keiser, Secretary.

**AUDIT COMMITTEE** – Yvette M. Ittu, 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 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. Pranka (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 – Acting 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, APRIL 17, 2013

No. 5184

## CITY COUNCIL

MONDAY, APRIL 15, 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, April 15, 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, TJ Dow, 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 and 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 Sustainability Jenita McGowan, Chief of Public Affairs Natoya Walker-Minor, and Directors Langhenry, Bender, Smith, Wasik, Butler, Flask, Cox, Rush, Southerington, Nichols, Griffin, Brown, Fumich and Ambroz.

Council Members, Administration, Staff, and those in the audience rose for a moment of silent reflection, and the Pledge of Allegiance.

#### JOURNAL CORRECTION

Motion by Council Member Cleveland, seconded by Council Member Kelley, that the Clerk be instructed

to correct the journal of the April 1, 2013, meeting of the Council (City Record Volume 100, page 511), at "SECOND READING EMERGENCY ORDINANCES PASSED" by striking all references to Ordinance No. 67-13 including its amendment, then inserting the following:

**"Ord. No. 67-13  
By Council Members Cimperman,  
Cleveland and Kelley (by departmental request)**

An emergency ordinance authorizing the Director of the City Planning Commission to apply for and accept a grant from the Robert Wood Johnson Foundation and PEW Charitable Trusts for the Health Impact Assessment Capacity Building Program; and authorizing the Director to enter into one or more contracts with various agencies, entities, or individuals to implement the grant.

Approved by the Directors of City Planning Commission, Public Health, Finance, Law; Passage recommended by Committees on City Planning, Health and Human Services, Finance, when amended as follows:

1. In Section 1, line 1, strike "Director of the City Planning Commission" and insert "**Director of City Planning, in coordination with the Director of Public Health.**"

Amendments agreed to.

The rules were suspended. Yeas 15. Nays 0. Read second time. Read third time in full. Passed. Yeas 15. 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."

And, further, that the Clerk be instructed to publish these amendments correctly in the City Record and to re-publish the final printing of this legislation.

#### MOTION

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

#### COMMUNICATIONS

**File No. 552-13.**

April 15, 2013

Allen Dreyer  
Deputy Clerk  
Cleveland City Council  
601 Lakeside Avenue  
Cleveland, Ohio 44114

Dear Mr. Dreyer:

In the absence of Clerk Patricia J. Britt, you are hereby requested, without objection, to serve as Clerk

of Council Pro Tempore for the purposes of the Meeting of Council on April 15, 2013, as well as for any other purpose during the period of April 16 through April 18, 2013.

Your assistance is appreciated.

Sincerely,  
Martin J. Sweeney,  
President Council

Received.

**File No. 546-13.**

From Natasha Brandt, Interim Manager of Division of Internal Audit, Department of Finance, City of Cleveland — Internal Audit Report on the City of Cleveland employee health care benefits administered through the Department of Human Resources for the period January 1 to May 31, 2012. Received.

**File No. 547-13.**

From Natasha Brandt, Interim Manager of Division of Internal Audit, Department of Finance, City of Cleveland — Internal Audit Report on a follow-up Public Safety Audit of the Police Property Room for the period ending June 30, 2011. Received.

**OATH OF OFFICE**

**File No. 544-13.**

Roland Pavlik — Lieutenant of Division of Fire. Received.

**FROM OHIO DIVISION OF LIQUOR CONTROL**

**File No. 543-13.**

RE: #01608940005 C1 — New License Application — Amana My Way Deli Inc., d.b.a. Corlett Deli, 12401 Corlett Avenue. (Ward 2). Received

**File No. 545-13.**

RE: #1257407 D5A D6 — New License Application — Carique Hospitality LLC, 1111 West 10th Street. (Ward 3). Received.

**File No. 548-13.**

RE: #51697480005 D5B — New License Application — Levy Premium Foodservice Limited, 300 Lakeside Avenue and 1 St. Clair Avenue. (Ward 3). Received.

**CONDOLENCE RESOLUTIONS**

The rules were suspended and the following Resolutions were adopted by a rising vote:

**Res. No. 539-13**—Gus Moulagianis.

**Res. No. 551-13**—Francis Chambers.

**Res. No. 553-13**—Christine Marie Johnson Malone.

**Res. No. 554-13**—Dr. Christopher Roark.

**Res. No. 555-13**—Queen E. Duncan.

**Res. No. 560-13**—Esther Hamm.

**CONGRATULATIONS RESOLUTIONS**

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

**Res. No. 556-13**—George L. Forbes, Esq.

**RECOGNITION RESOLUTIONS**

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

**Res. No. 557-13**—Cleveland Asian Festival (4th Annual).

**Res. No. 558-13**—Playhouse Square — 20th Annual "Fair on the Square"

**Res. No. 559-13**—14th Annual Timothy Leadership Conference.

**FIRST READING EMERGENCY ORDINANCES REFERRED**

**Ord. No. 532-13.**

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

**An emergency ordinance to amend Sections 187.04, 187.06, 187.12, and 187.14 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 77-08, passed February 4, 2008, relating to the Cleveland Area Business Code.**

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 187.04, 187.06, 187.12, and 187.14 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 77-08, passed February 4, 2008, are amended to read as follows:

**Section 187.04 CSB Goals of Contracting Departments**

(a) Consistent with the City's goal of increasing the level of CSB participation in Contracts, each Contracting Department shall use its best efforts to utilize CSBs as Contractors and subcontractors for all contracts in excess of **fifty thousand dollars (\$50,000.00)**. The annual City-wide goal for CSB participation in Public Improvement Contracts shall be thirty percent (30%), in professional services Contracts shall be ten percent (10%), and in all other Contracts shall be twenty percent (20%) or such other goal fixed by the Director for a particular Contract.

(b) To meet the goals fixed under division (a) of this section, Contracting Departments, in consultation with the Director, shall consider use of Bid Discounts under division (b) and (d) of Section 187.03 when recommending a bid as lowest and best or lowest responsible or recommending a proposal as best. Each Contracting Department shall be responsible for ensuring that invitations to bid or requests for proposal issued by or for that department comply with all provisions and procedures set forth in this chapter.

(c) In determining the CSB participation that shall be applied toward meeting the goals fixed under division (a) of this section, the Director shall credit:

(1) Expenditures to CSBs that perform Commercially Useful Functions in implementation or performance of a Contract;

(2) Expenditures to CSB manufacturers (i.e. Suppliers that produce goods from raw materials or the product of raw materials and add value by substantially altering them before resale);

(3) Sixty percent (60%) of expenditures to CSB Suppliers that are not

manufacturers, provided that the CSB Supplier performs a Commercially Useful Function in the supply process;

(4) Should a CSB subcontractor further subcontract its participation in a Contract to a non-CSB subcontractor, only the work or supplies actually performed or furnished by the CSB subcontractor shall be applied towards meeting the goals fixed under division (a) of this section;

(5) No credit shall apply for a Contractor's or a subcontractor's contract(s) for the purchase of materials, equipment, services, or supplies that are incident to the performance of services under the Contract or for the general operation of its business and not attributable exclusively to the particular subcontract; and

(6) A percentage of the total dollar value of the Contract with a CSB Joint Venture equal to the percentage of CSB participation in the Joint Venture shall be counted towards meeting the goals fixed under division (a) of this section. If the CSB is responsible for performance of a clearly defined portion of the work to be performed, equal in proportion to its share in the ownership, control, management, responsibility, risk, and profits of the Joint Venture.

(d) To fulfill the purposes of the goals fixed under division (a) of this section, Contractors shall use CSBs to perform a Commercially Useful Function during the implementation or performance of the Contract. Failure to do so will be a material breach of the Contract, and may subject the Contractor to criminal prosecution, decertification, and other sanctions.

(e) The Director shall not apply credit toward the CSB subcontractor participation goals fixed in division (a) of this section for participation under any Contract in a calendar year by any CSB subcontractor that has contracted under a City contract more than a maximum annual dollar amount per year fixed by the Director in the Regulations from time to time, except that the Director may apply credit toward the CSB subcontractor participation goals upon written request of a Bidder or Contractor attesting that no other certified CSBs are available to perform the work or supply the materials required for the Contract under which the CSB is a subcontractor, or in an emergency, or for such other reasons that the Director determines require use of that CSB. Nothing in the foregoing shall be deemed to prohibit a Contractor from subcontracting to that CSB, or that CSB from performing work or supplying materials under any Contract without participation credit.

**Section 187.06 MBE/FBE Goals of Contracting Departments**

(a) Consistent with the City's goal of increasing the level of MBE and FBE participation in City Contracts when past or present discrimination against such type of MBEs or FBEs or category of contract has been evidenced as provided in Section 187.28, each Contracting Department shall use its best efforts to utilize certified MBEs and FBEs as Contractors or subcontractors for all contracts in excess of **fifty thousand dollars (\$50,000.00)** where applicable. The Director may determine the appropriate annual City-wide goals for MBE and FBE participation for each type of Contract, including, but not limited

to, Construction, non-professional and professional services, supplies, and concessions, and for each type of work to be performed under a particular Contract, based on the availability of certified MBEs and FBEs as to which past or present discrimination has been demonstrated as provided in Section 187.28. The Director shall cause the goals to be published in the Regulations.

The Director shall fix the goals for MBE and FBE participation in a particular Contract in consultation with the Contracting Department based upon the annual City-wide goals for each type of Contract and for each type of work to be performed in the Contract and the availability of certified MBEs and FBEs. The Director may fix the goals for a particular Contract at a level exceeding the annual City-wide goals to assist a Contracting Department in meeting the annual City-wide goal for the particular type of Contract to be awarded.

(b) Contracting Departments shall consider use of certified MBEs and FBEs when recommending a lowest and best or lowest responsible bid to meet the specified annual goals and may apply a Bid Discount for Bid Comparison under division (c) of Section 187.05. However, these goals are not intended as quotas. Each Contracting Department shall ensure that bids or proposals emanating from that department comply with the procedures and provisions in this chapter and the Regulations.

(c) In evaluating the MBE and FBE participation that shall apply toward a Contracting Department's annual goals, the Director shall credit:

(1) Expenditures to certified MBEs and FBEs that perform Commercially Useful Functions in implementation or performance of a Contract;

(2) Expenditures to certified MBE and FBE manufacturers (i.e. Suppliers that produce goods from raw materials or the product of raw materials and add value by substantially altering them before resale);

(3) Sixty percent (60%) of expenditures to certified MBE and FBE Suppliers that are not manufacturers, provided that the MBE and FBE Supplier performs a Commercially Useful Function in the supply process;

(4) Should a MBE or FBE subcontractor further subcontract its participation in a Contract to a non-MBE or non-FBE only the work actually performed by the MBE or FBE subcontractor shall apply towards the Contracting Department's annual MBE or FBE participation goals;

(5) No credit shall apply to a Contractor's or a subcontractor's contract(s) for the purchase of materials, equipment, services, or supplies that are incident to the performance of services under the Contract or for the general operation of its business and not attributable exclusively to the particular subcontract;

(6) A Contractor or subcontractor that qualifies as both a MBE and FBE may obtain certification as both a MBE and FBE. The total dollar value of a particular Contract with such Contractor or subcontractor may count only toward the MBE or FBE goal, but not toward both. The Contractor must choose the category to which the Contract value should be applied; and

(7) A portion of the total dollar value of the Contract with a CSB, MBE, or FBE Joint Venture equal to

the percentage of certified CSB, MBE, or FBE participation in the Joint Venture may count toward meeting MBE and FBE goals. The CSB, MBE, or FBE must be responsible for performance of a clearly defined, distinct portion of the Contract work of equal proportion to its share in the ownership, control, management, responsibility, risk, and profits of the Joint Venture.

(d) To fulfill the purposes of the MBE and FBE goals, Contractors shall use MBEs and FBEs to perform a Commercially Useful Function in implementation or performance of the Contract. Failure to do so will not only be considered a material breach of the Contract, but may also subject the Contractor to criminal prosecution for fraudulent misrepresentation, decertification, and to other sanctions.

(e) The Director shall not apply credit toward the MBE and FBE subcontractor participation goals fixed under division (a) of this section for participation under any Contract in a calendar year by any one (1) MBE or FBE subcontractor that has contracted under a City contract more than a maximum annual dollar amount per MBE or FBE per year fixed by the Director in the Regulations from time to time, except that the Director may apply credit toward the MBE or FBE subcontractor participation goals upon written request of a Bidder or Contractor attesting that no other certified MBEs or FBEs are available to perform the work or supply the materials required for the Contract under which the MBE or FBE is a subcontractor, or in an emergency, or for such other reasons that the Director determines require use of that MBE or FBE. Nothing in the foregoing shall be deemed to prohibit a Contractor from subcontracting to that MBE or FBE, or that MBE or FBE from performing work or supplying materials under any Contract without participation credit.

(f) This section shall apply, as remedial action, only to the specified types and categories of Contracts and the contracting for those types and categories of Contracts, for which the City has developed or obtained, by disparity study or otherwise, a legally sufficient basis in evidence to demonstrate past or present discrimination as to participation of Minority Persons, Females, MBEs, or FBEs.

#### **Section 187.12 Responsibilities of Contracting Departments**

The Commissioner of Purchases and Supplies and each Contracting Department shall:

(a) Endeavor to maximize the participation of CSBs, MBEs, and FBEs in Contracts of fifty thousand dollars (\$50,000.00) or less;

(b) Develop lists of CSBs, MBEs, and FBEs experienced in the various types of services, products, or property for which the City typically contracts;

(c) Report to the Director quarterly not later than thirty (30) calendar days after the end of the previous quarter specifying, with respect to Contracts and subcontracts:

(1) The means by which it intends to meet goals established under this chapter in the forthcoming quarter;

(2) The percentage and dollar amount of those Contracts and subcontracts awarded in the previous quarter to CSBs, MBEs, and FBEs;

(3) For each Contracting Department, the degree to which it has met goals set forth in this chapter, any past and current activities undertaken and being undertaken to meet such goals and, if applicable, a detailed explanation of why it has not met the goals; and

(4) Other information as the Director may request; and

(d) Appoint one (1) or more members of each Contracting Department to serve as a liaison between the Contracting Department and the OEO, and to nominate a member of the contracting department or division to serve on the Review and Evaluation Committee provided under Section 187.23.

#### **Section 187.14 Small Contract Rotation Program**

(a) Provided that a disparity study or otherwise establishes a legally sufficient basis to employ a Small Contract Rotation Program as a remedy for past or present discrimination under Section 187.28, the Director shall establish a Small Contract Rotation Program for MBEs and FBEs, including procedures, applicable to the categories of construction, professional services and purchase contracts where the cost of the Contract is anticipated to be under **fifty thousand dollars (\$50,000.00)**. The purposes of the Small Contract Rotation Program are to increase contract opportunities for categories of MBEs and FBEs, that have been underutilized at a statistically significant level in Contracts under **fifty thousand dollars (\$50,000.00)**, to provide an orderly and efficient method of awarding purchases and work, and to equitably distribute purchases and work among qualified Contractors.

(b) Under the Small Contract Rotation Program, the City shall limit every second contract to be let by the City for each type of contract, within a category where MBEs and FBEs are underutilized at a statistically significant level, to competition among certified MBEs and FBEs who submit an application in a form acceptable to the Director. The Director shall compile an approved list comprised of not less than two (2) certified MBEs and FBEs for each industry and, as needed, compile specialized lists within industries. The eligible businesses shall be alphabetically ranked on each list and, for a thirty (30) day period commencing on January 1st and June 1st of each year, the Director shall hold open enrollment for applicants. The lists of prequalified vendors shall be made available to the public. The Commissioner of Purchases and Supplies shall solicit bids or proposals from all MBEs or FBEs on the list for each contract to be entered into under the Small Contract Rotation Program. When only one (1) qualified vendor is on the list, the Commissioner of Purchases and Supplies may purchase directly from that firm by direct negotiation of the purchase price.

**Section 2.** That existing Sections 187.04, 187.06, 187.12, and 187.14 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 77-08, passed February 4, 2008, 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 Office of Equal Opportunity, Finance, Law; Committees on Employment, Affirmative Action and Training, Legislation, Finance.

**Ord. No. 533-13.**

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

**An emergency ordinance to amend Sections 188.01 to 188.08 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to the Fannie M. Lewis Cleveland Resident and Apprentice Employment Law; to retitle Chapter 188 of the Codified Ordinances as the Fannie M. Lewis Cleveland Resident and Apprentice Employment Law; and to supplement the Codified Ordinances by enacting new Section 188.021 relating to apprentices.**

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

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

**Section 1.** That the following Sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Sections 188.01 and 188.02, as amended by Ordinance No. 1056-10, passed October 25, 2010,

Sections 188.03 and 188.04, as amended by Ordinance No. 2031-A-02, passed June 10, 2003,

Section 188.05, as amended by Ordinance No. 1056-10, passed October 25, 2010, and

Sections 188.06, 188.07, and 188.08, as amended by Ordinance No. 2031-A-02, passed June 10, 2003,

are amended to read as follows:

**Section 188.01 Definitions**

For purposes of this chapter, the following words, phrases and terms are defined as follows:

(a) **"Apprentice" means any Resident, at least sixteen years of age, except when a higher minimum age standard is otherwise fixed by law, who is (1) a graduate of a Bona Fide Apprenticeship Program including, but not limited to, such an apprenticeship program of the Cleveland Metropolitan School District or of a "partnering community school" located within the territory of the CMSD as defined in R.C. Section 3311.742; or (2) enrolled or indentured per trade occupation as a member of a Bona Fide Apprenticeship Program, or a Resident in the first 90 days of probationary employment as an apprentice in such an apprenticeship program who has been certified by the Ohio apprenticeship council or registered with the Ohio apprenticeship council to be eligible for probationary employment as an apprentice.**

(b) **"Bona Fide Apprenticeship Program" means a comprehensive training program registered with the Ohio apprenticeship council or certified by those with which Ohio holds reciprocal apprenticeship agreements.**

(c) **"City" means the City of Cleveland, Ohio.**

(d) **"City Construction Contract", solely for purposes of this chapter, means and includes either a Construc-**

**tion Contract or a Major Project Construction Contract, or both collectively, as the context requires.**

(e) **"Construction Contract" means any agreement whereby the City either grants a privilege or is committed to expend or does expend its funds or other resources, or federal grant opportunities, including without limitation, Community Development Block Grants, Urban Development Action Grants and Economic Development Administration Grants, in an amount of one hundred thousand dollars (\$100,000.00) or more, for the erection, rehabilitation, improvement, alteration, conversion, extension, demolition or repair of improvements to real property, including facilities providing utility service and includes the supervision, inspection, and other on-site functions incidental to construction, but does not include professional services. Construction Contract includes any contract that is entered into by a person or entity that receives a grant, loan, privilege, credit, or resources from the City, from its funds or from federal grant opportunities for the poor, minorities and/or unemployed in an amount of one hundred thousand dollars (\$100,000.00) or more, for the purpose of erecting, improving, rehabilitating, altering, converting, extending, demolishing, or repairing real property or improvements to real property.**

(f) **"Construction Worker Hours" means the total hours worked on a City Construction Contract by Skilled and Unskilled Construction Trade Workers, or by Apprentices, as applicable, whether those persons are employed by the Contractor or any Subcontractor. In determining the total Construction Worker Hours to be furnished at the construction site, there shall be included the number of hours devoted to all tasks customarily performed on a construction site, whether or not the tasks are, in fact, performed on the construction site. Construction Worker Hours excludes the number of hours of work performed by non-Ohio residents.**

(g) **"Contractor" means any person or company receiving a City Construction Contract from the City of Cleveland, any subdivision of the City, or any individual legally authorized to bind the City under the contract.**

(h) **"Director" means the Director of the Office of Equal Opportunity.**

(i) **"Low-Income Person" means a Resident who, when first employed by a contractor, is a member of a family having a total income equal to or less than the "Section 8" Very Low-Income limit established by the United States Department of Housing and Urban Development. Very Low-Income families are defined as families whose incomes do not exceed fifty percent (50%) of the median family income for the area in which they reside. Income limits are adjusted for family size. A Resident who is not a member of a family shall be considered as a one-person family for this purpose. A Resident shall retain "Low-Income Person" status for a continuous five (5) year period starting upon the OEO's written acknowledgement that the Resident's family income does not exceed the above-stated limit, provided:**

(1) **The Resident remains employed by the same employer that hired the Resident as a Low-Income Person; and**

(2) **The Resident remains a Resident during the five (5) year period.**

(j) **"Major Project Construction Contract" means a Construction Contract valued at \$1,000,000 or more.**

(k) **"Pre-apprentice" means a Resident who receives formal classroom training designed to provide the Resident with the basic education, attitudes, skills, trade knowledge, and motivation necessary to enter a formal apprenticeship program.**

(l) **"Resident" or "Resident of the City" shall mean persons domiciled within the boundaries of City of Cleveland. The domicile is an individual's one (1) and only true, fixed and permanent home and principal establishment.**

(m) **"Skilled and Unskilled Construction Trade Worker" means all work site foremen, journeyworkers, including technical engineers, apprentices, construction trainees and elevator construction helpers and apprentices that are in a bona fide apprenticeship training program that is certified by the U.S. Department of Labor, Bureau of Apprenticeship and Training. Also included are other workers appropriate for construction activities. Salaried superintendents are excluded from this special provision.**

(n) **"Subcontractor(s)" means any person or company that assumes by secondary contract some or all of the obligations of the original Contractor.**

**Section 188.02 Employment of City Residents**

(a) **Where not otherwise prohibited by federal, state, or local law or the terms of federal or state grants, every Construction Contract shall:**

(1) **Require that one (1) or more Residents perform twenty percent (20%) of the total Construction Worker Hours ("Resident Construction Worker Hours") performed under the Construction Contract;**

(2) **State the penalties set forth in Section 188.05 for failure to meet the requirement of division (a)(1) of this section; and**

(3) **Require the Contractor and its Subcontractors to use significant efforts to ensure that no less than four percent (4%) of the Resident Construction Worker Hours required by this division are performed by Low-Income Persons.**

Upon submission of documentary proof of the hours satisfactory to the Director, a Contractor may include in its Resident Construction Worker Hours the hours worked for the Contractor or its Subcontractors by Residents who are Skilled and Unskilled Construction Trade Workers on projects that are not under a Construction Contract, between the dates that work under the Construction Contract begins and ends. A Contractor may also include in its Resident Construction Worker Hours the hours worked by Residents who are graduates of established, bona fide pre-apprenticeship programs approved by the **Residency Construction Advisory Committee** including, but not limited to, the Bricklayers & Allied Crafts Pre-apprenticeship program, Cement Masons Pre-apprenticeship program, or Union Construction Industry Partnership-Apprenticeship Skill Achievement Program ("UCIP-ASAP").

(b) **The percentage levels set forth in division (a) of this Section 188.02 are intended as minimum requirements for use of Residents under Con-**

struction Contracts and shall not be construed as limiting or deferring the full use of Residents beyond this numerical level.

(c) Prior to the commencement of work, each Contractor and Subcontractor shall, if requested by the Director, complete and submit to the Director a work-force table. The table shall identify the estimated work-force requirements for the duration of the job, broken down by trade and month. The Contractor or Subcontractor shall revise the table as required, but not less than once a month.

**Section 188.03 Standards, Reductions and No Waiver**

(a) The Director, consistent with the provisions of this chapter, shall establish standards and procedures, as the Director deems proper and necessary, to effectively administer the intent and purpose of this chapter. In creating these standards and procedures and in creating any subsequent modifications thereof, the Director shall work with the Chairperson of the Employment, Affirmative Action and Training Committee. The standards and exceptions shall be effective thirty (30) days after publication in the *City Record*. However, at least ten (10) days prior to publication in the *City Record*, the Director shall provide the President of City Council and the Chairperson of the Employment, Affirmative Action and Training Committee with a copy of the proposed standards and procedures.

(b) The standards and procedures shall specify that the employment of the minimum percentage of Residents or the minimum percentage of Apprentices may be reduced prior to or during construction only when a Contractor or potential Contractor can demonstrate the high impracticality of complying with this percentage level for particular contracts or classes of employees. The Director shall apply the standard of "efforts to the greatest extent feasible" to the Contractor's or Subcontractor's efforts when evaluating requests for reduction. A reduction may be deemed appropriate by the Director if a Contractor or potential Contractor has unsuccessfully solicited a sufficient number of Residents of the City or, when applicable, a sufficient number of Apprentices, to perform the work identified in the bid specifications and has documented such effort to the satisfaction of the Director. In addition, such standards and procedures shall require that a Contractor or potential Contractor seeking a reduction shall have provided timely notice of the need for Residents of the City to an appropriate source(s) of referrals, as determined by the Director, which source(s) shall be entitled to comment on any reduction application. If the Director determines that a lesser percentage of Residents or a lesser percentage of Apprentices is appropriate with respect to a potential Construction Contract or a potential Major Project Construction Contract, respectively, for which bids will be solicited, bid specifications shall include a statement of the revised standards. The standards established by the Director shall also provide for a reduction during construction based on petition by the Contractor demonstrating serious unforeseen circumstances, such as new governmental regulations, national or natural disas-

ters, war and/or other disastrous events or high impracticality.

(c) The Director shall file his or her determination on all reductions, and the reasons for the reduction, with the Clerk of City Council, the President of City Council, and the Chairperson of the Employment Affirmative Action and Training Committee, within five (5) working days of making a determination.

(d) The Director shall not waive either the Resident Construction Worker Hours or the Apprentice Construction Worker Hours of this chapter.

**Section 188.04 Monitoring by Director: Reporting by Contractor, and Advisory Committee to the Director.**

(a) The Director shall separately monitor the use of Residents of the City and the use of Apprentices on all applicable projects respectively in Skilled and Unskilled Construction Trade Worker positions and in construction worker positions, and shall report his or her findings in writing to the Clerk of City Council, the President of City Council, and to the Employment Affirmative Action and Training Committee of this Council on a bimonthly basis.

(b) The Contractor shall provide for the maintenance of all records documenting that Residents of the City and Apprentices, as applicable, are employed under the City Construction Contract. The Contractor and Subcontractor(s) shall maintain copies of personnel documents supportive of every Resident employee's and of every Apprentice's actual record of residence.

(c) The Contractor shall designate a principal officer of its firm to be responsible for administering the Resident and the Apprentice requirements for the Contractor and all of its Subcontractor(s) under the requirements detailed in this chapter. This officer shall meet regularly, or as may be required, with the Director or his or her designee to ensure compliance with the Resident and the Apprentice requirements in this chapter. Primary responsibility for meeting established goals shall remain with the Contractor. Certified payroll reports (U.S. Department of Labor form WH-347 or equivalent) in a format specified by the Director shall be submitted monthly to the Director for applicable construction contracts and shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time an employee's name appears on a payroll, a hire date for the employee should be included after the employee's name.

(d) Full access to the employment records of the Contractor and any Subcontractor that document information that relates to the requirements of this chapter shall be granted to the Director and the Chief of Police, or the duly authorized representative(s) of either. The Contractor and Subcontractor(s) shall maintain all relevant personnel data in records for a period of at least three (3) years after final completion of work. This retention period may be extended in writing by the Director based on an audit finding irregularities.

(e) The Director may require affidavits and other supporting documentation from the Contractor and/or Subcontractor(s) to verify or clarify that an employee or an Apprentice is

a Resident when doubt or lack of clarity has arisen.

(f) There shall be established a Residency Construction Advisory Committee to the Director with the charge of furthering the intents and purposes of this chapter. Membership shall consist of one (1) representative appointed by the Mayor, one (1) representative appointed by the President of City Council, one (1) representative appointed by the Executive Director of the Cleveland Building and Construction Trade Council, one (1) representative appointed by the Executive Director of the Construction Employers Association or its delegate and one (1) representative jointly appointed by the Mayor and the President of City Council who is not affiliated with Cleveland Building and Construction Trade Council or the Construction Employers Association or its delegate. This Committee may establish one (1) or more advisory subcommittees to help achieve the goals established pursuant to this legislation.

**Section 188.05 Violation and Penalty**

(a) When work under a City Construction Contract is completed, and in the event that the Director determines that the Contractor has failed to fulfill the requirements contained in either Section 188.02 or Section 188.021 concerning Construction Worker Hours performed by Residents of the City or by Apprentices, respectively, or has failed to submit reports as required in Sections 188.02, 188.021, and 188.04, the City is deemed to have been damaged. Good-faith efforts on the part of the Contractor or Subcontractor to provide employment to Residents of the City and to Apprentices, when applicable, shall not suffice to replace the actual, verified achievement of the requirements contained in Sections 188.02 and 188.021.

(b) If a Contractor breaches a City Construction Contract by failing to meet the applicable Resident Construction Worker Hours and Apprentice Construction Worker Hours requirements under Section 188.02 and Section 188.021, it shall pay the City one-eighth of one percent (0.125%) of the final total amount of the respective contract for each percentage by which it fails to meet the requirement or any reduced requirement determined appropriate by the Director according to Section 188.03. If a Contractor does not achieve the Low-Income Person objective, the Director in her or his sole discretion shall determine whether a penalty is appropriate and, if so, the penalty amount the Contractor shall pay the City.

(c) The Director, in addition to any other remedies available for the breaches by a Contractor identified in division (b) of this section or for other defaults under a City Construction Contract, may:

(1) Recommend that the City withhold all or part of any payments due the Contractor until such time as the Contractor cures its defaults, pays or credits all penalties or other payments due under the City Construction Contract, the Code, or the Standards and Procedures, and is in full compliance with all applicable provisions of the Code, the City Construction Contract, and the Standards and Procedures relating to Resident or

**Apprentice** or Low-Income Person employment or reporting;

(2) Recommend, based upon a breach of or default under the Contract relating to Resident or **Apprentice** or Low-Income Person employment, that the City rescind, cancel, or otherwise terminate the Contract and declare a forfeiture of any performance bond;

(3) Recommend that the Director of Law take the legal action, whether civil or criminal, as he or she deems appropriate;

(4) Recommend disqualification under Section 181.27 or Section 185.08 of the Codified Ordinances of Cleveland, Ohio, 1976 of a Contractor from eligibility to bid to or contract with the City for a period not to exceed two (2) years; or

(5) Recommend that the City make a claim for payment of damages, including any liquidated damages specified in the Contract.

(d) A decision of the Director under this section is final and may be appealed to the Board of Zoning Appeals by filing a notice of appeal with the Board and a copy to the Director within fifteen (15) days of the decision. The Board of Zoning Appeals shall, after a hearing, determine whether the decision of the Director is arbitrary, capricious, or unreasonable. The decision of the Board of Zoning Appeals, in turn, may be reviewed by the Common Pleas Court of Cuyahoga County under RC Chapter 2506, or as otherwise provided by law.

(e) Failure to submit, or knowing falsification of, the reports required in Sections 188.02, **188.021**, and 188.04 shall constitute a breach of the City Construction Contract subject to assessment of the maximum penalty provided in division (b) of this section, and the penalty shall be calculated as if no Residents of the City or **Apprentices**, as appropriate, were employed on the construction project in furtherance of the City Construction Contract.

(f) No Contractor shall knowingly falsify any required reports, statements or payroll certifications. Any Contractor who knowingly falsifies reports, statements or the certification of payroll data is guilty of a misdemeanor of the first degree and subject to a fine of not more than five thousand dollars (\$5,000.00). If a Contractor is convicted under this division, that Contractor shall be barred from contracting with the City on any construction project subject to this chapter for a period of five (5) years.

(g) Pending determination by the Director whether a Contractor must pay a penalty under this chapter, the Director may recommend that the City withhold from amounts retained by the City under Section 185.41 and payable to the Contractor, the amount of any penalty payable by the Contractor under this chapter.

(h) The imposition of any penalty or fine under this section shall not preclude the City from exercising any other rights or remedies to which it is entitled.

(i) All funds collected by the City of Cleveland under division (b) or (c) of this section shall be deposited into a special account which shall be created for the sole purpose of receiving the funds. The funds deposited into this account shall be used for the operation of the Office of Equal Opportunity provided the funds have

been appropriated for that purpose, provided there is any necessary legislative authority and provided the funds are used in compliance with all laws or restrictions regarding their use.

(j) No person shall knowingly supply false information to establish that the person is a Resident or an **Apprentice** for purposes of this chapter. Any person who knowingly supplies false information to establish that he or she is a Resident or an **Apprentice** is guilty of a misdemeanor of the first degree. Upon conviction, the person shall be barred from employment by a **Contractor or Subcontractor on a City Construction Contract** for a period of five (5) years.

#### **Section 188.06 Severability**

Each section and each part of each section of this Fannie M. Lewis Cleveland Resident and **Apprentice** Employment Law is declared to be an independent section or part of a section, and notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any section or part of a section or any provision thereof, or the application to any person or circumstances, is held to be invalid, the remaining sections or parts of sections and the application of the provision to any other person or circumstances, other than those as to which it is held invalid, shall not be affected. It is further declared to be the legislative intent that the other provisions of this Code would have been adopted independently of the section or parts of a section which are held to be invalid.

#### **Section 188.07 Duration**

This Fannie M. Lewis Cleveland Resident and **Apprentice** Employment Law is enacted as a temporary measure to alleviate the lack of use of Residents and of **Apprentices** on City of Cleveland construction projects found to exist by the Council of the City of Cleveland. This code shall remain in full force and effect, subject to periodic review by the Council of the City of Cleveland. The City Council shall regularly, but at a minimum of once every five (5) years, determine whether there is a continuing need to ensure adequate resident and **apprentice** employment, and make relevant findings in support of that determination, and, if necessary amend this chapter as appropriate. In addition, every two (2) years after enactment of this Fannie M. Lewis Cleveland Resident and **Apprentice** Employment Law, the City Council shall review the **percentage Resident, Apprentice, and Low-Income Persons requirements**, to determine the appropriateness of each percentage and make relevant findings of that determination, and if necessary, amend **division (a) of Section 188.02 and/or division (a) of Section 188.021**.

#### **Section 188.08 Effective Date**

This chapter shall be effective and be in force on its passage and approval as of January 1, 2004. **Any Amendment to this chapter shall become effective and be in force on its passage, or as the amendment may otherwise provide.**

**Section 2.** That the following existing Sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Sections 188.01 and 188.02, as amended by Ordinance No. 1056-10, passed October 25, 2010,

Sections 188.03 and 188.04, as amended by Ordinance No. 2031-A-02, passed June 10, 2003,

Section 188.05, as amended by Ordinance No. 1056-10, passed October 25, 2010, and

Sections 188.06, 188.07, and 188.08, as amended by Ordinance No. 2031-A-02, passed June 10, 2003, are repealed.

**Section 3.** That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 188.021 to read as follows:

Section 188.021 Employment of Apprentices

(a) Where not otherwise prohibited by federal, state, or local law or the terms of federal or state grants, every Major Project Construction Contract shall:

(1) require that one or more Residents, including Apprentices, perform 25% of the total Construction Worker Hours ("Resident Construction Worker Hours") performed under the Major Project Construction Contract;

(2) require that one or more Apprentices perform 5% of the total Construction Worker Hours ("Apprentice Construction Worker Hours") required under the Major Project Construction Contract as part of the 25% Resident Construction Worker Hours requirement;

(3) state the penalties set forth in Section 188.05 for failure to meet the requirement of divisions (a)(1) and (2) of this section; and

(4) require the contractor and its Subcontractors to use significant efforts to ensure that no less than 4% of the Resident Construction Worker Hours required by this division are performed by Low-Income Persons. The contractor may also count some or all of its Apprentice Construction Worker Hours, as defined in division (a)(2) of this section, as Resident Construction Worker Hours performed by Low-Income Persons, provided that the Apprentice(s) performing those hours are Low-Income Persons as defined in division (i) of Section 188.01.

On submission of documentary proof of the hours satisfactory to the Director, a Contractor may include in its Resident Construction Worker Hours the hours worked for the Contractor or its Subcontractors by Residents who are Skilled and Unskilled Construction Trade Workers, and in its Apprentice Construction Worker Hours the hours worked for the Contractor or its Subcontractors by Apprentices, on projects that are not under a City Construction Contract, between the dates that work under the City Construction Contract begins and ends. A Contractor may also include in its Resident Construction Worker Hours and in its Apprentice Construction Workers Hours the hours worked by Residents who are graduates of established, bona fide pre-apprenticeship programs approved by the **Residency Construction Advisory** Committee, including, but not limited to, the Bricklayers & Allied Crafts Pre-apprenticeship program, Cement Masons Pre-apprenticeship program, or the Union Construction Industry Partnership-Apprenticeship Skill Achievement Program ("UCIP-ASAP"), or who are otherwise Apprentices.

(b) The percentage levels set forth in division (a) of this Section 188.021



are intended as minimum requirements for use of Residents and Apprentices under Major Project Construction Contracts and shall not be construed as limiting or deferring the full use of Residents or Apprentices beyond this numerical level.

(c) Before the commencement of work, each Contractor and Subcontractor shall, if requested by the Director, complete and submit to the Director a work-force table. The table shall identify the estimated work-force requirements for the duration of the job, broken down by trade and month. The Contractor or Subcontractor shall revise the table as required, but not less than once a month.

**Section 4.** That the existing title to Chapter 188 of the Codified Ordinances is changed to read "Fannie M. Lewis Cleveland Resident and Apprentice Employment Law".

**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 Office of Equal Opportunity, Finance, Law; Committees on Employment, Affirmative Action and Training, Legislation, Finance.

**Ord. No. 534-13.**

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

**An emergency ordinance authorizing the Directors of Public Works and Finance to enter into one or more contracts with the Cleveland Metropolitan School District to conduct recreational, cultural, and extracurricular programs for the benefit of school children during the 2012-13 school year.**

Whereas, under Ordinance No. 1025-A-95, passed June 28, 1995, tax revenues from levying the parking facility tax and increases in the motor vehicle lessor tax and the admission tax can be used to fund recreational, cultural, and extracurricular programs within the Cleveland School system; and

Whereas, the Joint Board established by Ordinance No. 1025-A-95 has recommended that a portion of the tax proceeds be used to fund a number of recreational, cultural, and extracurricular programs for City school children during the 2012-13 school year, including dance, drama, instrumental, vocal, cheerleading, aquatic, sports, and academic enrichment programs; 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 Public Works and Finance are authorized to enter into one or more contracts with the Cleveland Metropolitan School District to conduct various recreational, cultural and extracurricular programs for the benefit of City school children during the 2012-13 school year, under the program description contained in File No. 534-13-A. The cost of the contract or contracts shall not

exceed \$1,000,000 and shall be paid from Fund No. 11 SF 035, Request No. RQS 7001, RL 2013-20.

**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.

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

**Ord. No. 535-13.**

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

**An emergency ordinance authorizing the Mayor to execute a release of covenant and deed restrictions on property located at 1708 Southpoint Drive, Cleveland, Ohio and known as the Hoover Pavilion in exchange for an agreement from MetroHealth to maintain and expand its commitment to mentally ill persons, and to receive, treat and care for the mentally ill at two City-owned Health Centers and on-site at its main campus and at other MetroHealth locations in the City of Cleveland; and to authorize the Director of Public Health to enter into leases with MetroHealth to provide medical services at the Thomas McCafferty and J. Glen Smith Health Centers.**

Whereas, under the authority of Ordinance No. 555-06, passed February 25, 1946, the City executed and delivered an Official Deed to the State of Ohio transferring to the State the premises located at 1708 Southpoint Drive, Cleveland, Ohio, known as the Hoover Pavilion (the "Hoover Pavilion Deed"); and

Whereas, the Hoover Pavilion Deed contained a restrictive covenant and reversionary clause (deed restriction), stating that the grantee (State of Ohio) "shall operate the premises for the reception, treatment, and care of the mentally ill," and that the Hoover Pavilion should revert back to the City of Cleveland if the State fails to maintain such operations for the mentally ill. The deed was recorded in the Cuyahoga County Recorder's Office on February 19, 1962 in Volume 10350, Page 563 of the Cuyahoga County Records (AFN# 00574744); and

Whereas, until very recently, the Northcoast Behavioral Psychiatric Center building was operating on the Hoover Pavilion property and was used by the Northcoast Behavioral Health Center as a treatment center for the mentally ill; and

Whereas, the State of Ohio intends to transfer the Hoover Pavilion property to The MetroHealth System ("MetroHealth"); and

Whereas, MetroHealth intends to demolish the former Northcoast Behavioral Psychiatric Center building as part of its plan to redevelop the hospital campus which includes the Hoover Pavilion property where it will continue to provide medical services including the treatment of the mentally ill; and

Whereas, in order to redevelop the hospital campus, MetroHealth has requested that the City of Cleveland remove the Deed Restriction; and

Whereas, the City of Cleveland has agreed to remove the Deed Restriction in return for MetroHealth agreeing to:

1. enter into two, 15 (fifteen) year Lease By Way of Concession agreements with the City of Cleveland to provide medical services at the Thomas McCafferty and J. Glen Smith Health Centers, such on-site services shall include without limitation: Adult Medicine, Pediatric & Family Practice Care, OB/GYN Services, Mental Health Services, Financial Counseling, Asthma Clinic, Cardiology, WIC, Nutrition, Bilingual Services, Social Work, Pride Clinic, Healthy Start Applications and expanded evening and weekend coverage;

2. maintain specialty care access and financial counseling assistance, as well as reduced wait times for specialty care appointments for patients referred from the City's Health Centers; and

3. enter into a binding agreement with the City to maintain and expand its commitment to mentally ill persons, and to receive, treat, and care for the mentally ill at the City's Health Centers and on-site at its main campus and at other MetroHealth locations in the City of Cleveland, for a period of at least fifteen (15) years from the date the City of Cleveland removes the Deed Restriction; 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, prior to the release of the Deed Restriction, the Director of Public Health shall enter into an agreement with MetroHealth where MetroHealth agrees to (a) enter into two, 15 (fifteen) year Lease By Way of Concession agreements with the City of Cleveland to provide medical services at the Thomas McCafferty and J. Glen Smith Health Centers, such on-site services shall include without limitation: Adult Medicine, Pediatric & Family Practice Care, OB/GYN Services, Mental Health Services, Financial Counseling, Asthma Clinic, Cardiology, WIC, Nutrition, Bilingual Services, Social Work, Pride Clinic, Healthy Start Applications and expanded evening and weekend coverage; (b) maintain specialty care access and financial counseling assistance, as well as reduced wait times for specialty care appointments for patients referred from the City's Health Centers; and (c) maintain and expand its commitment to mentally ill persons, and to receive, treat, and care for the mentally ill at the City's Health Centers and on-site at its main campus and at other MetroHealth locations in the City of Cleveland, for a period of at least fifteen (15) years from the date the City of Cleveland releases the Deed Restriction.

**Section 2.** That the Director of Law shall prepare and the Mayor shall execute on behalf of the City of Cleveland a Release of Covenant and Deed Restrictions for the property located on 1708 Southpoint Drive, Cleveland, Ohio, formerly known as the Hoover Pavilion and more fully described as:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Brooklyn Township Lot No.

73 and being known as part of the City Hospital site, so-called, and bounded and described as follows:

Beginning on the northerly line of the East View Addition of part of Original Brooklyn Township Lots Nos. 66 and 73, recorded in Volume 16, Page 19, of Cuyahoga County Map Records, at its intersection with the westerly line of Sublot No. 18 in said East View Addition; thence in a direct extension of said westerly line of Sublot No. 18 North 262.37 feet to the southerly line of an existing passage-way or tunnel; thence South 76 ° 50' 00" East 415.12 feet; thence South 13 ° 10' 00" West 172.35 feet to the north-easterly corner of Sublot No. 27 in said East View addition 365 feet, more or less, to the place of beginning.

**Section 3.** That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Health is authorized to lease by way of concession to MetroHealth, or its designee

("Lessee"), certain property, which is suitable for lease by another party for public use, known as the Thomas McCafferty Health Center located at 4242 Lorain Avenue, Cleveland, Ohio 44113 and J. Glen Smith Health Center located at 11100 St. Clair Avenue, Cleveland, Ohio 44108.

**Section 4.** That the term of the leases authorized by this ordinance shall be 15 years.

**Section 5.** That the Thomas McCafferty and J. Glen Smith Health Center properties authorized by this ordinance shall be leased at no rent in exchange for Lessee providing medical services as described in Section 1 to the citizens of Cleveland through the use of a sliding scale for payment based on the patient's ability to pay, and such other terms as are agreed to by the Director of Public Health, which is determined to be fair market value.

**Section 6.** That the leases may authorize the Lessee to make improvements to the leased premises

at no cost to the City subject to the approval of appropriate City agencies and officials.

**Section 7.** That the leases shall be prepared by the Director of Law.

**Section 8.** That the Director of Public Health, the Director of Law, and other appropriate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to effect the leases authorized by this ordinance.

**Section 9.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from the earliest period allowed by law.

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

**FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED**

**Ord. No. 536-13.**

**By Council Member Kelley (by departmental request).**

**An emergency ordinance to amend Section 51 of Ordinance No. 1689-11, passed November 28, 2011, as amended by Ordinance No. 668-12, passed May 7, 2012, 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 Section 51 of Ordinance No. 1689-11, passed November 28, 2011, as amended by Ordinance No. 668-12, passed May 7, 2012, shall be amended as follows:

**Section 51. Housing Court Employees**

That salaries and compensation in the following classifications shall be fixed by the appointing authority in accordance with the schedule appearing after each classification:

	<b>Minimum</b>	<b>Maximum</b>
1. Chief Housing Court Specialist.....	\$52,158.83	\$86,233.74
2. Housing Court Administrative Assistant.....	23,063.94	54,990.00
3. Housing Court Administrator.....	64,815.84	96,917.89
4. Housing Court ADR Specialist.....	42,178.00	84,012.07
5. Housing Court Chief Bailiff.....	38,884.00	88,026.00
6. Housing Court Chief Magistrate.....	71,667.00	116,982.00
7. Housing Court Coordinator.....	23,064.00	52,418.10
8. Housing Court Court Reporter.....	23,715.99	58,166.16
9. Housing Court Deputy Bailiff.....	22,173.84	54,367.68
10. Housing Court Deputy Bailiff - Uniformed.....	22,173.84	54,367.68
11. Housing Court Deputy Bailiff Supervisor.....	42,815.88	69,786.54
12. Housing Court Deputy Bailiff/Finance Officer.....	38,544.06	70,048.00
13. Housing Court Deputy Bailiff/Judicial Clerk.....	21,993.75	50,839.15
14. Housing Court Deputy Bailiff/Staff Attorney.....	29,585.00	69,902.23
15. Housing Court Magistrate.....	42,178.32	91,529.00
16. Housing Court Magistrates' Personal Bailiff.....	23,063.94	51,104.81
17. Housing Court Personal Bailiff.....	63,969.00	88,389.00
18. Housing Court Project Coordinator.....	31,050.00	67,369.91
19. Housing Court Receptionist.....	23,064.00	35,083.94
20. Housing Court Scheduler.....	23,063.94	51,104.81
21. Housing Court Secretary.....	20,815.92	38,151.00
22. Housing Court Specialist.....	<b>34,000.00</b>	<b>69,000.00</b>
23. Housing Court Specialist - Mediation Coordinator.....	29,585.48	58,781.03
24. Housing Court Student Aide.....	10.30	10.30

**Section 2.** That existing Section 51 of Ordinance No. 1689-11, passed November 28, 2011, as amended by Ordinance No. 668-12, passed May 7, 2012, shall be 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.

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

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

**Ord. No. 537-13.**  
**By Council Member Kelley (by**  
**departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$11,100,000 for the purpose of providing funds to improve facilities for the discharge of governmental functions or for services otherwise benefiting public safety, health and welfare and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Eleven Million One Hundred Thousand Dollars (\$11,100,000) (the "Series 2013 Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Series 2013 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 certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2013 Bonds is at least five (5) years and the maximum maturity of the Series 2013 Bonds is ten (10) years, as evidenced by the certificate contained in File No. 537-13-A; and

Whereas, the authorization for issuance of the Series 2013 Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1 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 2013 Bonds in an aggregate principal amount not to exceed Eleven Million One Hundred Thousand Dollars (\$11,100,000) for the purpose of providing funds to improve facilities for the discharge of governmental functions or for services otherwise benefiting the public safety, health and welfare, including constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving buildings, structures and other facilities in, of and for City Hall, police stations, fire stations, emergency medical centers, service stations, waste collection, transfer and disposal facilities, correctional facilities, health facilities, centers and other facilities, 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 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 2013 Bonds shall be issued pursuant to 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. The Series 2013 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 2013 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 2013 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") and one series of Subordinate Lien Income Tax Bonds issued on November 29, 2012 (the "Series 2012 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 2013 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 2013 Bonds.** The Series 2013 Bonds shall be issued in fully registered form. The Series 2013 Bonds may be issued in one or more series or subseries. The Series 2013 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 Fourth Supplement identified in Section 7. The Series 2013 Bonds shall be designated "Public Facilities Improvement Bonds, Series 2013" and may contain such further designation as provided in the Certificate of Award identified below. The Series 2013 Bonds shall be issued in one lot as fully registered Series 2013 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2013 Bonds shall be numbered as determined by the Director of Finance. The Series 2013 Bonds shall be signed by the officials of the City and in the manner set forth in the Indenture.

The Series 2013 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 2013 Bonds and the sale of the Series 2013 Bonds in accordance with this Ordinance (the "Certificate of Award"). The Series 2013 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 2013 Bonds shall not exceed six per cent (6.00%) per year. Interest on the Series 2013 Bonds shall be payable semi-annually on April 1 and October 1, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2013 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 2013 Bonds shall be no later than August 1, 2024. The Series 2013 Bonds stated to mature in any year may be issued as serial Series 2013 Bonds or as term Series 2013 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 2013 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 2013

Bonds are issued as Term Series 2013 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 Fourth Supplement).

The Series 2013 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 2013 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2013 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 Fourth Supplement.

If and to the extent provided in the Certificate of Award, the Series 2013 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 2013 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 2013 Bonds.** The Series 2013 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 2013 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 2013 Bonds, including: the principal amount of the Series 2013 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 2013 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2013 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 2013 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 2013 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 2013 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 2013 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 2013 Bonds and the Original Purchaser agrees to buy the Series 2013 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 2013 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Fourth 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 2013 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 2013 Bonds 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 any original issue premium received from the sale of the Series 2013 Bonds).

**Section 7. Supplemental Indenture.** The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Fourth Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2013 Bonds, redemption of Series 2013 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2013 Bonds, defeasance of the Series 2013 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 Fourth Supplement shall be approved as to form by the Director of Law. The determination by the Director of Finance that the provisions of the Fourth Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Fourth 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 Fourth Supplement as may be necessary or appropriate to issue and sell the Series 2013 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 2013 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Eleven Million One Hundred Thousand Dollars (\$11,100,000) (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 of the City 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 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 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 a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award"). 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 Series 2013 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 Series 2013 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 supple-

ments 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 her judgment, 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 Series 2013 Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Series 2013 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 Series 2013 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 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 2013 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 2013 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 2013 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 2013 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 2013 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 2013 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2013 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 2013 Bonds and any Notes and the tax status of the Series 2013 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 2013 Bonds or any Notes (a "Credit Support Instrument"). The Director of Finance may request a rating on the Series 2013 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 2013 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 2013 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 any of its committees and that all deliberations of this Council 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 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 Series 2013 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 Series 2013 Bonds or the Notes. It is further found and determined, and is 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 Series 2013 Bonds and any Note Certificate of Award to the County Fiscal Officer of Cuyahoga County and to secure a receipt therefore.

**Section 16. Severability.** Each section and each part of each section of

this Ordinance is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is 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 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. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Series 2013 Bonds or the Notes authorized herein.

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 Series 2013 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.

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

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

**Ord. No. 538-13.**  
**By Council Member Kelley (by departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$6,100,000 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 Six Million One Hundred Thousand Dollars (\$6,100,000) (the "Series 2013 Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Series 2013 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 certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2013 Bonds is at least five (5) years and the maximum maturity of the Series 2013 Bonds is seventeen (17) years, as evidenced by the certificate contained in File No. 538-13-A; and

Whereas, the authorization for issuance of the Series 2013 Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1 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 2013 Bonds in an aggregate principal amount not to exceed Six Million One Hundred Thousand Dollars (\$6,100,000) for the purpose of providing funds to improve municipal parks and recreation facilities by constructing, reconstructing, rehabilitating, installing, renovating, enlarging 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 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 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 2013 Bonds shall be issued pursuant to 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. The Series 2013 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 2013 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 2013 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") and one series of Subordinate Lien Income Tax Bonds issued on November 29, 2012 (the "Series 2012 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 2013 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 2013 Bonds.** The Series 2013 Bonds shall be issued in fully registered form. The Series 2013 Bonds may be issued in one or more series or subseries. The Series 2013 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 Depos-

itory or its nominee) without further action by the City pursuant to the provisions of the Indenture and the Fourth Supplement identified in Section 7. The Series 2013 Bonds shall be designated "Parks and Recreation Facilities Improvement Bonds, Series 2013" and may contain such further designation as provided in the Certificate of Award identified below. The Series 2013 Bonds shall be issued in one lot as fully registered Series 2013 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2013 Bonds shall be numbered as determined by the Director of Finance. The Series 2013 Bonds shall be signed by the officials of the City and in the manner set forth in the Indenture.

The Series 2013 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 2013 Bonds and the sale of the Series 2013 Bonds in accordance with this Ordinance (the "Certificate of Award"). The Series 2013 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 2013 Bonds shall not exceed six per cent (6.00%) per year. Interest on the Series 2013 Bonds shall be payable semi-annually on April 1 and October 1, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2013 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 2013 Bonds shall be no later than August 1, 2031. The Series 2013 Bonds stated to mature in any year may be issued as serial Series 2013 Bonds or as term Series 2013 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 2013 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 2013 Bonds are issued as Term Series 2013 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 Fourth Supplement).

The Series 2013 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 2013 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2013 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 Fourth Supplement.

If and to the extent provided in the Certificate of Award, the Series 2013 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 2013 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 2013 Bonds.** The Series 2013 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 2013 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 2013 Bonds, including: the principal amount of the Series 2013 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 2013 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2013 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 2013 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 2013 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 2013 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 2013 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 2013 Bonds and the Original Purchaser agrees to buy the Series 2013 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 2013 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Fourth 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 2013 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 2013 Bonds 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 any original issue premium received from the sale of the Series 2013 Bonds).

**Section 7. Supplemental Indenture.** The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Fourth Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2013 Bonds, redemption of Series 2013 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2013 Bonds, defeasance

of the Series 2013 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 Fourth Supplement shall be approved as to form by the Director of Law. The determination by the Director of Finance that the provisions of the Fourth Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Fourth 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 Fourth Supplement as may be necessary or appropriate to issue and sell the Series 2013 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 2013 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Six Million One Hundred Thousand Dollars (\$6,100,000) (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 of the City 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 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 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 a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award"). 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 Series 2013 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 Series 2013 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 her judgment, 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 Series 2013 Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Series 2013 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 Series 2013 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 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 2013 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 2013 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 2013 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 2013 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 2013 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 2013 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2013 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 2013 Bonds and any Notes and the tax status of the Series 2013 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 2013 Bonds or any Notes (a "Credit Support Instrument"). The Director of Finance may request a rating on the Series 2013 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 2013 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 2013 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 any of its committees and that all deliberations of this Council 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 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 Series 2013 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 Series 2013 Bonds or the Notes. It is further found and determined, and is 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 Series 2013 Bonds and any Note Certificate of Award to the County Fiscal Officer of Cuyahoga County and to secure a receipt therefore.

**Section 16. Severability.** Each section and each part of each section of this Ordinance is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is 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 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. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Series 2013 Bonds or the Notes authorized herein.

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 Series 2013 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.

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

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

**Ord. No. 540-13.**

**By Council Member Brady.**

**An emergency ordinance to name the baseball diamond at Halloran Park the Margaret M. Sweeney (Marge) Baseball Diamond.**

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 baseball diamond at Halloran Park shall be named the Margaret M. Sweeney (Marge) Baseball Diamond, and that the Director of Public Works is authorized and directed to take the necessary action to affect said naming and to post the proper signs at said baseball diamond.

**Section 2.** 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.

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

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

**Ord. No. 541-13.**

**By Council Member Pruitt.**

**An emergency ordinance to add the name Vemel Whalen Way as a secondary name to Glendale Avenue between Wendy Drive and East 131st Street and repealing Ordinance No. 514-13 passed April 8, 2013.**

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

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

**Section 1.** That, notwithstanding and as an exception to the Codified Ordinances of the City of Cleveland, 1976, the name Vemel Whalen Way shall be added as a secondary name to Glendale Avenue between Wendy Drive and East 131st Street.

**Section 2.** That Ordinance No. 514-13, passed April 8, 2013 is 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.

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

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

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

**Res. No. 542-13.**

**By Council Member Cimperman.**

**An emergency resolution supporting Northeast Ohio hospitals and Ohioans in urging the Ohio General Assembly to include the expansion of Medicaid eligibility in their proposed budget bill for the health and economic benefit of all Ohioans.**

Whereas, this Council passed a resolution on March 25, 2013 urging Governor Kasich and the Ohio General Assembly to propose and pass a budget that expands Medicaid eligibility in Ohio; and

Whereas, the Ohio General Assembly has a unique opportunity to expand Medicaid eligibility to cover people making up to 138% of the federal poverty level, which is \$15,420 for an individual or \$26,352 for a family of three; and

Whereas, such an expansion would be supported by generous federal funding levels that have already been set aside for that purpose under the Patient Protection and Affordable Care Act (ACA), including an average of 95% of the expansion cost through 2019; and

Whereas, Governor Kasich included the expansion of Medicaid eligibility in his budget, and strongly supports the expansion, but last week Republicans in the Ohio House of Representatives introduced a substitute budget that stripped out Medicaid expansion; and

Whereas, Northeast Ohio hospitals, including the Cleveland Clinic, University Hospitals, Sisters of Charity Health System and others, along with the business community and concerned Ohioans, are working

to convince lawmakers that Ohioans' lives and the economy are at stake; and

Whereas, Ohio hospitals will lose millions of dollars in federal funding currently used to treat uninsured patients and provide free care that was supposed to be replaced by Medicaid expansion; and

Whereas, if Ohio does not expand Medicaid eligibility, local hospitals that rely on decreasing Medicaid uncompensated care dollars to help them treat the uninsured will be at-risk of decreasing treatment or closing their doors; and

Whereas, many Ohioans who will qualify for expanded Medicaid are the working poor, not necessarily the unemployed; Governor Kasich's office estimates that about 45 percent of those who will qualify for coverage under the expansion statewide have jobs; and

Whereas, Ohio Consumers for Health Coverage states that if Ohio expands Medicaid eligibility, at least 600,000 low-income working Ohioans who are currently uninsured will have access to health care through Ohio's Medicaid managed care plans, and seek more preventive care with better health outcomes as a result; and

Whereas, the nonpartisan Health Policy Institute of Ohio's county-level study projects that in Cuyahoga County, about 46,000 uninsured residents ages 19 to 64 would gain coverage through Medicaid if expansion occurs; and

Whereas, in addition to health benefits, expanding Medicaid eligibility will help our economy with an investment of \$20 billion in federal Medicaid dollars during the years 2014 through 2019 to pay for the expansion; and

Whereas, this investment will stimulate the Ohio economy by going directly into our health care system, to hospitals, and doctors, and other providers, and creating additional jobs, attracting additional businesses, and raising state revenue through income and other taxes; and

Whereas, larger urban areas like Northeast Ohio may see as many as 4,300 new jobs, and because of the higher employment, Cuyahoga County is projected to net an additional \$9 million in additional sales tax revenues from Medicaid managed care plans as well as general sales tax, according to the Health Policy Institute report; and

Whereas, The Ohio Medicaid Expansion Study found that expanding Medicaid eligibility would allow \$1.6 billion in state budget savings during state fiscal years 2014-2022, because certain categories of current Medicaid spending would qualify for higher federal matching rates, letting the state reduce its spending; also, non-Medicaid spending on health care for the poor and near-poor uninsured would be replaced by federal Medicaid dollars, allowing a reduction in state general fund spending; and

Whereas, expanding Medicaid would generate between 2.7 billion and 2.8 billion in state revenue during state fiscal years 2014-2022 through 1) increased state's managed care sales and insurance tax revenue from increased enrollment; 2) increased state's receipt of rebates

from drug manufacturers covering more Medicaid prescription drug customers, and finally; 3) resulting economic activity from the Ohio health industry and businesses generating sales and income tax revenue; and

Whereas, an estimated \$1.8 to 1.9 billion in net state budget gains over this nine-year period studied by The Ohio Medicaid Expansion Study could be redirected to other priorities, including tax relief or education funding; and

Whereas, a Medicaid expansion would affect Ohio residents during 2022, the final year studied, by reducing the number of uninsured Ohio residents by more than 450,000, creating more than 27,000 Ohio jobs, reducing health care costs for Ohio employers and residents by \$285 million and \$1.1 billion, respectively, and generating significant savings and revenues for Ohio counties; and

Whereas, without a Medicaid expansion, the ACA would create small, net budget losses during the state fiscal years 2014-2022 period as a whole; policymakers would need to add the Medicaid expansion to the remainder of the ACA for the federal legislation to yield net state budget gains; 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 Northeast Ohio hospitals and Ohioans in urging the Ohio General Assembly to include the expansion of Medicaid eligibility in their proposed budget bill for the health and economic benefit of all Ohioans.

**Section 2.** That the Clerk of Council is directed to transmit copies of this resolution to Governor John Kasich, the Ohio General Assembly, Dr. David Bronson, the Cleveland Clinic, Heidi Garland, University Hospitals, and Robin Bachman, Sisters of Charity Health System.

**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 18. Nays 0.

**Res. No. 549-13.**

**By Council Member Polensek.**

**An emergency resolution withdrawing objection to a New C1 Liquor Permit at 15707 St. Clair Avenue and repealing Resolution No. 31-13, objecting to said permit.**

Whereas, this Council objected to a New C1 Liquor Permit to 15707 St. Clair Avenue by Resolution No. 31-13 adopted by the Council on January 7, 2013; and

Whereas, this Council wishes to withdraw its objection to the above permit and consents to said permit, based upon a cooperation agreement between Councilmember Michael D.

Polensek and Applicant William C. Bass, CEO; 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 Dolgen Midwest, LLC, DBA Dollar General, #13729, 15707 St. Clair Avenue, Cleveland, Ohio 44110, Permanent Number 2234815-1420, be and the same is hereby withdrawn and Resolution No. 31-13, 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 third time in full. Adopted. Yeas 18. Nays 0.

**Res. No. 550-13.**

**By Council Member Cleveland.**

**An emergency resolution withdrawing objection to the renewal of a D1, D2, D3 and D3A Liquor Permit at 5351-5355 Dolloff Road and repealing Resolution No. 1026-12, objecting to said renewal.**

Whereas, this Council objected to the renewal of a D1, D2, D3 and D3A Liquor Permit to Your Place & Mine, LLC, DBA Your Place & Mine, 5351-5355 Dolloff Road, Cleveland, Ohio 44127, Permanent Number 9862110 by Resolution No. 1026-12, adopted by the Council on August 8, 2012; 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 the renewal of a D1, D2, D3 and D3A Liquor Permit to Your Place & Mine, LLC, DBA Your Place & Mine, 5351-5355 Dolloff Road, Cleveland, Ohio 44127, Permanent Number 9862110, be and the same is hereby withdrawn and Resolution No. 1026-12, 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 third time in full. Adopted. Yeas 18. Nays 0.

**SECOND READING EMERGENCY ORDINANCES PASSED**

**Ord. No. 1659-12.**

**By Council Member Conwell.**

An emergency ordinance to amend Section 403.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 672-12 passed June 4, 2012, relating to Traffic Code Misdemeanor Classifications and Penalties.

Approved by Directors of Public Safety, Finance, Law; Passage recommended by Committees on Public Safety, 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. 167-13.**

**By Council Members Conwell, Polensek, Brancatelli, Dow, Cummins, Westbrook, Keane, K. Johnson, Cleveland and Pruitt.**

An emergency ordinance to amend Sections 605.11, 621.03, and 623.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to offenses and misconduct involving a public transportation system and against a public transportation worker.

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

1. In the title, at the end, strike the period and insert: “; and to further amend Section 623.10 to prohibit spray painting waste containers and noise walls.”

2. In Section 1, at amended Section 605.11(e), line 2, strike “(RC 2917.41)”; and in 605.11(h), line 1, strike “divisions (a), (b), (c), (d) or (e)” and insert “**division (c)**”.

3. In Section 1, at amended Section 605.11, insert new division (i) to read as follows:

“(i) **Whoever violates division (a), (b), (d), or (e) of this section is guilty of a misdemeanor of the fourth degree.**”

4. In Section 1, at amended Section 623.10(a)(2), line 2, after “**waste containers**” insert a comma.

Amendments 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. 366-13.**

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

An emergency ordinance authorizing the Director of Public Utilities to employ one or more professional consultants to design and distribute utility bills, inserts, reminders, and delinquent notices, and to provide various services related to bill printing and mailing services, including but not limited to on-line bill payment and presentment services, for the Divisions of Water and Cleveland Public Power for a period up to three years, with two options to renew for additional one year periods, the first of which is exercisable

through additional legislative authority.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 16. Nays 2.

Those voting yea: Council Members Brady, Cimperman, Cleveland, Conwell, Dow, J. Johnson, K. Johnson, Keane, Kelley, Miller, Mitchell, Polensek, Pruitt, Reed, Sweeney and Westbrook.

Those voting nay: Council Members Brancatelli and Zone.

Absent: Council Member Cummins.

**Ord. No. 431-13.**

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

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more contracts with Youth Opportunities Unlimited for the administration, implementation, and management of the Cleveland Youth Summer Employment Program and authorizing one or more contracts with public agencies to implement the Youth Summer Employment Program, for a period of one year, with one option to renew for an additional one year period, exercisable by the Director of Public Utilities.

Approved by Directors of Public Utilities, Finance, Law; Passage recommended by Committees on Public Utilities, Finance.

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

**MOTION**

On the motion of Council Member Brady, the absence of Council Member Brian J. Cummins is hereby authorized. Seconded by Council Member Polensek.

**MOTION**

The Council Meeting adjourned at 8:10 p.m. to meet on Monday, April 22, 2013, at 7:00 p.m. in the Council Chamber.

Allan Dreyer  
City Clerk, Clerk of Council  
Pro Tempore

**THE CALENDAR**

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

NONE

**BOARD OF CONTROL**

April 10, 2013

The Regular meeting of the Board of Control convened in the Mayor's office on Wednesday, April 10, 2013 at 10:43 a.m. with Director Langhenry presiding.

Present: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Absent: Mayor Jackson and Director Rush.

Others: Jomarie Wasik, Director, Mayor's Office of Capital Projects.

Natoya Walker-Minor, Interim Director, Office of Equal Opportunity.

Jim Hardy, Commissioner, Purchases & Supplies.

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

**Resolution No. 160-13.**

By Director Bender.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 272-09, passed by the Council of the City of Cleveland on April 20, 2009, Recess Creative, LLC is selected from a list of firms determined after a full and complete canvass by the Director of Public Utilities as the firm to provide professional consulting services for the Cleveland Division of Water Website Redesign, which requires services such as designing, developing, and implementing recommendations; integrating, converting, and migrating data; developing content; and providing training, maintenance, technical support, project management, and other related services necessary to implement the upgrade and redesign of the existing internet site, for the Division of Water, Department of Public Utilities.

Be it further resolved that the Director of Public Utilities is authorized to enter into a contract with Recess Creative, LLC based upon its proposal dated, March 8, 2013, which contract shall be prepared by the Director of Law, shall provide for furnishing of professional services described in the proposal, for an aggregate fee not exceeding \$109,700.00, and shall contain such additional provisions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved that the employment of the following sub-consultants by Recess Creative, LLC for the above-mentioned professional services is approved:

**SUBCONSULTANTS WORK PERCENTAGE**

Quez Media Marketing (CSB/MBE/LPE) \$10,970.00 10%

Yeas: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson and Director Rush.

**Resolution No. 161-13.**

By Director Wasik.

Whereas, under the authority of Ordinance No. 663-12, passed by Cleveland City Council on June 4, 2012, and Board of Control Resolution No. 366-12, adopted July 25, 2012, the City, through its Director of Capital Projects, entered into Contract No. PI2012\*37 with Perk Company, Inc. for the public improvement of Flats East Bank Roadway Enhancements (Main Avenue, West 9th

Street, West Lakeside Avenue), for the Division of Engineering and Construction, Mayor's Office of Capital Projects; and

Whereas, Perk Company, Inc. wishes to amend the participation amounts of certain previously approved subcontractors for the project and to engage additional subcontractors; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that Resolution No. 366-12, adopted July 25, 2012, is amended by revising the participation amounts attributed to the subcontractors approved in the resolution to the following:

Tech Ready Mix, Inc. (CSB/MBE) — \$199,037.50 (9.52%)

Cuyahoga Supply & Tool Inc. (CSB/FBE) — \$39,679.35 (1.90%)

Trafftech, Inc. (CSB) — \$56,292.10 (2.69%)

Cordova Enterprises LLC, dba CorStone, Ltd. (CSB/MBE/FBE) — \$180,141.00 (8.62%)

Be it further resolved that all other terms of Resolution No. 366-12 not expressly amended by this resolution shall remain unchanged and in full force and effect.

Be it further resolved that the employment of the following subcontractors by Perk Company, Inc. under Contract No. PI2012\*37 for the above-mentioned public improvement is approved:

Royal Landscape-Gardening, Inc. (CSB/FBE) — \$93,225.00 (4.46%)

Eclipse Co LLC. (CSB/FBE) — \$83,926.00 (4.01%)

Barbicas Construction Company, Inc. (other) — \$233,340.25 (11.16%)

Yeas: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson and Director Rush.

**Resolution No. 162-13.**

By Directors Cox and Dumas.

Whereas, Ordinance No. 236-13, passed by the Council of the City of Cleveland on March 18, 2013, authorizes the Director of Public Works and the Director of Finance to employ by contract one or more temporary employment agency or agencies, to provide temporary and seasonal personnel for various programs for the Director of Public Works and the Director of Finance for a period up to one year; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland, that under the authority of Ordinance No. 236-13, passed by Council of the City of Cleveland on March 18, 2013, Snider Blake Business Service, Inc. is selected upon nomination of the Director of Public Works and the Director of Finance from a list of firms determined after a full and complete canvass as the temporary employment agency to be employed by contract for the purpose of supplementing regularly employed staff of several depart-

ments of the City of Cleveland to perform the professional services necessary to supply temporary and seasonal personnel for the Department of Public Works, the Project Clean Program, and the Department of Finance.

Be it further resolved that the Director of Public Works and Director of Finance are authorized to enter into a written contract or contracts with Snider Blake Business Service, Inc. ("Agency"), based on its January 25, 2013 proposal, to supply temporary and seasonal personnel for seasonal programs for Director of Public Works and Director of Finance during the 12-month period beginning upon execution of a contract, which contract shall be prepared by the Director of Law and shall include such additional provisions as that Director considers necessary to benefit and protect the interest. The fees for services to be performed under the contracts authorized, as stated in the Agency's proposal, including charges for drug testing and criminal background checks shall be:

**POSITIONS SUPPLIED FEE**

Department of Public Works Maintenance Aides Project Clean Aides	\$12.33 per hour and, if the City's Fair Employment Living Wage increases, an amount equal to 123.6% of the Fair Employment Wage determined under Section 189.02 of the Codified Ordinances of Cleveland, Ohio, 1976 ('C.O.')
Seasonal Supervisors	\$12.64 per hour and, if the City's Fair Employment Living Wage increases, an amount equal to 123.6% of the Fair Employment Wage, determined under Section 189.02 C.O., plus \$0.25 per hour.

**POSITIONS SUPPLIED FEE**

Department of Finance

The fee for each position for all temporary and seasonal personnel required for the Director of Finance over the course of the contract shall be determined for each position individually by applying an amount equal to 123.6% of the wage determined for that occupation by the Bureau of Wage Statistics' current published Metropolitan and Non-metropolitan Area Occupational Employment and Wage Estimates for Cleveland-Elyria-Mentor OH, but in no event shall be less than an amount equal to 123.6% of the Fair Wage determined under Section 189.02 C.O.

Be it further resolved that the employment of the following sub-contractors is approved:

<u>NAME</u>	<u>DOLLAR AMOUNT PERCENTAGE</u>
New Management, Inc. CSB/MBE	\$2,000,000.00 47.619%

Employment Specialists International, Inc. \$ 750,000.00  
0.00%

Yeas: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson and Director Rush.

**Resolution No. 163-13.**

By Director Cox.

Whereas, the City of Cleveland owns and operates certain real property commonly known as the Willard Park Garage under the supervision and direction of the Director of Public Works; and

Whereas, MVP Valet Services, LLC has proposed to offer valet parking services to the general public for various events to be held at Cleveland Public Auditorium by using the Willard Park Garage; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that, under Section 183.04 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Works is authorized to enter into a concession agreement with MVP Valet Services, LLC to use Willard Park Garage to offer valet parking services to the public for the following events to be held at the Cleveland Public Auditorium on the listed dates, for a fee per event of \$450.00 plus \$5.00 per vehicle parked:

**EVENT DATE**

United Way Women's Leadership Council's Rock the Catwalk	April 11, 2013
Cleveland Clinic's Heart Throb Ball	May 3, 2013
Rock & Roll Hall of Fame Annual Benefit Ceremony	May 11, 2013

The concession agreement shall be prepared by the Director of Law and shall contain such additional provisions as the Director of Law deems necessary to protect and benefit public interest.

Yeas: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson and Director Rush.

**Resolution No. 164-13.**

By Director Cox.

Whereas, by Resolution No. 250-12, adopted on June 6, 2012, under the authority of Section 131.15(f) of the Codified Ordinances of Cleveland, Ohio 1976, this Board of Control established the rental rates for the Cleveland Public Auditorium, its various rooms, halls, and portions thereof; and

Whereas, the City of Cleveland will sponsor Senior Day 2013 to be held on May 21, 2013; and

Whereas, Senior Day 2013 is open to the public free of charge; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland, that notwithstanding and as an

exception to the terms of Resolution No. 250-12, adopted by this Board of Control on June 6, 2012, the use of the space at Cleveland Public Auditorium for Senior Day 2013 shall be provided at no charge.

Be it further resolved that the Cleveland Public Auditorium shall charge the Department of Aging at the prevailing rate for any labor, materials, and equipment supplied.

Yeas: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson and Director Rush.

**Resolution No. 165-13.**

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 Parcel No. 008-07-051 located at 3114 West 16th Street in Ward 14; 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, Elizabeth Schiros has proposed to the City to purchase and develop the parcel for yard expansion; and

Whereas, the following conditions exist:

1. The member of Council from Ward 14 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 parcel 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 Elizabeth Schiros for the sale and development of Permanent Parcel No. 008-07-051 located at 3114 West 16th Street, 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 the parcel shall be \$1.00, which amount is determined to be not less than the fair market value of the parcel for uses according to the Program.

Yeas: Directors Langhenry, Dumas, Bender, Smith, Cox, Butler, Flask, Southerington, Nichols, Fumich and Rybka.

Nays: None.  
Absent: Mayor Jackson and Director Rush.

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, APRIL 29, 2013**

**9:30 A.M.**

**Calendar No. 13-44:** 3682 East 131st Street (Ward 4)

Wilson Fisher, Jr. appeals under Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) from being denied an application for a Motor Vehicle Repair Garage License by the Commissioner of Assessments and Licenses upon the recommendation of the City of Cleveland Department of Building and Housing.

**Calendar No. 13-47:** 806 Literary Avenue (Ward 3)

Sandy Banks LLC, owner, appeal for use of an outdoor patio area and apparent construction of patio walls on an irregular shaped parcel in a C1 General Retail Business District and:

(a) subject to Sections 349.04(f) accessory off-street parking for a bar/restaurant is required at the rate of one for each employee, plus one for each 100 square feet of patron space floor area or one for each four seats, whichever is greater, a patio area of 2,310 square feet requires 24 additional off-street parking spaces;

(b) under the provisions in Section 349.02 in all use districts, existing off-street parking facilities shall not voluntarily be reduced below the requirements of Chapter 349 in the Cleveland Code of Ordinances;

(c) and in accordance with provisions under Section 327.02(d) before

any permit or certificate of occupancy is issued, the Commissioner of Building and Housing shall examine plans and a plot plan to ascertain whether the proposed work and use will conform to the Zoning Code and plan details for apparent new patio construction of patio walls have not been provided and are required to ascertain conformance to the Zoning Code;

(d) the expansion of nonconforming use requires the Board of Zoning Appeals approval; and a variance was granted for a deficiency in parking and required landscaping in Calendar No. 01-284 for a parking lot site.

**Calendar No. 13-53:** 16003 Saranac Road (Ward 11)

Joan Anger appeals under Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) from being denied an application for a Motor Vehicle Repair Garage License by the Commissioner of Assessments and Licenses upon the recommendation of the City of Cleveland Department of Building and Housing.

**Calendar No. 13-54:** 1261 West 76th Street (Ward 15)

Gillespie Brothers Ltd., owner, appeal for use and Certificate of Occupancy as a bar with entertainment, an outdoor patio and canopy on a 40' x 110.02' corner lot located in a Planned Unit Development (PUD) Overlay District within a G3 Multi-Family District; subject to the provisions in Section 334.13, after completion of initial construction, no Building Permit or Certificate of Occupancy shall be issued for any lot within a development or any phase thereof for which a Site Plan has been approved under Section 334.04 or division (b) of Section 334.05 unless one of the following applies:

(a) the application for a Building Permit or Certificate of Occupancy conforms to the approved Final Site Plan;

(b) the application conforms to all regulations applicable to properties for which a Site Plan has not been approved and is also generally consistent, in the judgment of the Director, with the approved Site Plan; or

(c) an amendment to the approved Site Plan is approved under Section 334.10 to allow the action for which the Permit or Certificate is sought; or

(d) for Permits or Certificates affecting a single lot of less than one quarter acre containing less than five thousand square feet of gross floor area, a Variance from the Site Plan or the regulations of this Code has been approved by the Board of Zoning Appeals.

Contrary to Section 337.08 the proposed use for a bar with entertainment and outdoor patio are not permitted and first allowed in a General Retail Business district; and pursuant to Section 349.04(e), a parking area in the amount of three times the gross floor/patio area is required under the Cleveland Codified Ordinances.

**Calendar No. 13-55:** 8200 Bessemer Avenue (Ward 5)

Sidacko Bessemer I, LLC, owner, appeals to install 10-foot high electrified fence around the perimeter of

irregular shaped acreage located in a B3 General Industry District, contrary to Section 358.05(a)(1) that limits fences in actual front yards to a 6-foot height in General and Unrestricted Industry Districts; and pursuant to Section 358.02(e) in the Cleveland Code of Ordinances, the term "actual front yard" shall refer to the entire lot area between a main building and the corresponding lot line.

**Calendar No. 13-56:** 6100 Truscon Avenue (Ward )

Truscon Realty, LLC, owner, appeals to install 10-foot high electrified fence around the perimeter of irregular shaped acreage located in a B3 General Industry District, contrary to Section 358.05(a)(1) that limits fences in actual front yards to a 6-foot height in General and Unrestricted Industry Districts; and pursuant to Section 358.02(e) in the Cleveland Code of Ordinances, the term "actual front yard" shall refer to the entire lot area between a main building and the corresponding lot line.

Secretary

**REPORT OF THE BOARD OF ZONING APPEALS**

**MONDAY, APRIL 15, 2013**

At the meeting of the Board of Zoning Appeals on Monday, April 15, 2013, the following appeals were scheduled for hearing before the Board.

The following appeals were **APPROVED:**

**Calendar No. 13-41:** 3250 West 117th Street

Abdul Assad appealed to establish use for used car sales and car wash in a C1 General Retail Business District; subject to revised plan.

**Calendar No. 13-45:** 3952 West 140th Street

Cleveland Metropolitan School District appealed to erect a new school on acreage in an A1 One-Family District.

**Calendar No. 13-21:** 3702 Oak Park Avenue

Marcello Silvestri appealed to erect a 13' x 30' one-story frame accessory garage to an existing garage in an A1 One-Family District; subject to conditions.

**Calendar No. 13-18:** 6114 Francis Avenue

aka 2969 East 61st Street Elizabeth Baptist Church appealed to use for a group home, a homeless shelter, within a B1 Two-Family District; subject to conditions.

The following appeal was **DENIED:**

**Calendar No. 13-46:** 1595 East 30th Street

Philip Neshkin, owner, and Yorgl Wu, prospective tenant, appealed to establish an auto repair shop in an existing building in a B1 Semi-Industry District.

The following appeal was **DISMISSED**:

None.

The following appeal was **WITHDRAWN**:

**Calendar No. 13-48:** 2709 East 93rd Street Jimmy Walls dba Magic Auto Body, Inc. appealed from being denied an application for a renewed Motor Vehicle Repair Garage License by the Commissioner of Assessments and Licenses.

The following appeal was **POSTPONED**:

**Calendar No. 12-220:** 1170 Ivanhoe Road postponed to May 28, 2013.

The following appeals heard by the Board on April 8, 2013 were adopted and approved on April 15, 2013:

The following appeals were **APPROVED**:

**Violation Notice**

**Calendar No. 13-42:** 7801 Lorain Avenue Loraine Montgomery appealed from a decision rendered on a Civil Infraction Ticket issued by the City of Cleveland Waste Collection Division.

**Calendar No. 12-171:** 3951 Rocky River Drive Bethesda Lutheran Home appealed for a dwelling addition and to establish a charitable institution for assembly, activity and office areas for job training and daytime activities for clients in a B1 Two-Family District; subject to condition for parking agreement.

The following appeal was **DENIED**:

**Calendar No. 12-202:** 4414-20 Pearl Road Brian Bodach appealed to change use from retail to four (4) residential units an existing building in a C1 Local Retail Business District.

The following appeal heard by the Board on January 22, 2013 was adopted and approved.

The following appeal was **APPROVED**:

**Calendar No. 12-231:** 5409 Bridge Avenue Silverstar Ohio Holdings LLC appealed to change a one family to a two family residence in a B1 Two-Family District.

Secretary

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

Re: Report of the Meeting of April 10, 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-4-13.**

RE: Appeal of J.C. Robinson, Owner of the Two Dwelling Units Two-Family Residence Two Story Frame Property, located on the premises known as 11914 Gay Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 6, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which to abate the violations; the property is REMANDED at the end of that time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Maschke and seconded by Mr. Gallagher.

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

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**Docket A-8-13.**

RE: Appeal of Shakerlan Properties, Inc., Owner of the MXD Mixed Uses — Multiple Uses In One Building Three Story Masonry Walls/Wood Floors Property and One Story Masonry Garage Property, located on the premises known as 12635 Larchmere Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated December 6, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant six (6) months in which to sell the building, and/or abate the violations with the condition that the building remain secured and the grounds groomed during that period of time; 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. Gallagher and seconded by Mr. Saab.

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

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**Docket A-9-13.**

RE: Appeal of Dorothy Marshall-Barringer, Owner of the Two Dwelling Units Two-Family Residence Two & One-half Story Frame Property, located on the premises known as 3587 East 139th Street, from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 15, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which

to present a plan and obtain all required permits, and six (6) months in which to abate the violations; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

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

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**Docket A-10-13.**

RE: Appeal of Lucretia Russell, Owner of the One Dwelling Unit Single-Family Residence Two Story Frame Property, located on the premises known as 2339 East 90th Street from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated November 27, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which to present a plan and obtain all required permits and sixty (60) days in which to abate all exterior violations; the Appellant is granted one hundred-eighty (180) days total in which to complete abatement of the violations on the property in accordance with the Department of Building and Housing's rehabilitation plan, the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that failure to meet any of the dates will REMAND the property immediately. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

Yeas: Messrs. Denk, Gallagher, Saab. Nays: Messrs. Bradley, Maschke.

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**Docket A-11-13.**

RE: Appeal of Dana Word Sr., Owner of the One Dwelling Unit Single-Family Residence Two Story Frame Property, located on the premises known as 4628 East 175th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated January 4, 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 DENY the appeal request for additional time, and to REMAND the property to the Department of Building and Housing for supervision and any required further action, based upon the photographic evidence of the deterioration of the property and the fact that the Appellant was not present for the hearing. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.

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

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**Docket A-12-13.**

RE: Appeal of Rios Properties, Inc., Owner of the Two Dwelling

Units Two-Family Residence Two & One/half Story Frame Property, located on the premises known as 8512 Connecticut Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 7, 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).

BE IT RESOLVED, a motion is in order at this time to DENY the appeal request for additional time, and to REMAND the property to the Department of Building and Housing for supervision and any required further action, noting the lack of a plan and the perceived lack of plans for the property in the near future. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.

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

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**Docket A-13-13.**

RE: Appeal of Grassroot Innovations LLC, Owner of the R-2 Residential — Non-transient; Apartments (Shared Egress) Two Story Frame Property and One Story Garage — Detached; Wood Frame Property, located on the premises known as 3445 East 119th Street from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated December 11, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant sixty (60) days in which to raze the property, 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, Gallagher, Saab, Bradley, Maschke. Nays: None.

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**Docket A-14-13.**

RE: Appeal of Strongtower Christian Assembly, Owner of the R-4 Residential — Non-transient; Shared Living Areas for 5-16 Persons Three Story Wood Frame/Siding/Masonry Veneer Property, located on the premises known as 936 East 141st Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 17, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant sixty (60) days in which to submit plans to the Building Department and an additional thirty (30) days in which to obtain permits, and to follow the judgment of the Department of Building Department in conformance with comments to permit the construction to proceed from that time point; 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. Gallagher and seconded by Mr. Maschke.

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

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**Docket A-15-13.**

RE: Appeal of Renard Parnell II, Owner of the One Dwelling Unit Single-Family Residence One Story Frame Property, located on the premises known as 4333 East 142nd Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 19, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant two (2) weeks in which to obtain permits and sixty (60) days in which to complete abatement of the exterior violations, and one hundred—eighty (180) days in which to complete abatement of all violations; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that failure to meet any of the dates will REMAND the property immediately. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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

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**Docket A-16-13.**

RE: Appeal of Mary Battle, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property, located on the premises known as 12309 Benham Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant two (2) weeks in which to present a plan and obtain permits and sixty (60) days in which to complete abatement of the exterior violations, and one hundred—eighty (180) days total in which to complete abatement of all violations; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that failure to meet any of the dates will REMAND the property immediately. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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

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**Docket A-17-13.**

RE: Appeal of Talia Collins, Owner of the Two Dwelling Units Two-Family Residence Two Story Frame Property, located on the premises known as 2218 East 89th

Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 12, 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).

BE IT RESOLVED, a motion is in order at this time to DENY the appeal request for additional time, noting the condition of the property and feasibility of rehabilitation; the property 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. Gallagher and seconded by Mr. Saab.

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

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**Docket A-18-13.**

RE: Appeal of Michael O'Bannon, Owner of the Residential Property, located on the premises known as 3834 East 151st Street from a LIMITATION ON THE PERMIT, dated January 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 DENY the appeal request for additional time, and to REMAND the property 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. Gallagher.

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

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**Docket A-19-13.**

RE: Appeal of Ovidiu Sarsama, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property, located on the premises known as 3472 West 52nd Street from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated December 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant two (2) weeks in which to present a plan and obtain permits, sixty (60) days in which to complete abatement of all exterior violations, including the graffiti, noting that the exterior must be maintained during that period of time, and one hundred—eighty (180) days total in which to complete abatement of all violations; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that failure to meet any of the dates will REMAND the property immediately. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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



**Docket A-21-13.**

RE: Appeal of Marcelline Properties, Owner of the MXD Mixed Uses — Multiple Uses In One Building Two Story Masonry Property, located on the premises known as 4106 East 71st Street from a NOTICE OF VIOLATION — INTERIOR/EXTERIOR MAINTENANCE, dated December 18, 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant until May 30th, 2013 in which to complete abatement of the violations on the property, at that time the property is REMANDED 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, Gallagher, Saab, Bradley, Maschke. Nays: None.

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**Docket A-23-13.**

RE: Appeal of Don R. Blake, Owner of the R-2 Residential — Non-transient; Apartments (Shared Egress) Two & One/half Story Frame Property, located on the premises known as 3603 East 117th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated December 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).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant sixty (60) days in which to submit plans and obtain all required permits and the Appellant is granted six (6) months in which to complete abatement of the violations on the property in accordance with the Department of Building and Housing's rehabilitation plan, 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. Gallagher and seconded by Mr. Bradley.

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

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**Docket A-87-13.**

RE: Appeal of Richard M. & Adrienne Gray Jr., Owners of the Residential Property, located on the premises known as 2136 West 5th Street from an ADJUDICATION ORDER, dated March 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 variance to permit the property to be built one foot from the property line, noting that the adjacent property is 13'-6" from the property line and provides the required distances between the two properties, with the provision that should the adjacent property owner wish to build a

structure within five feet, that this property must be brought into conformance with the one foot requirements at that time. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

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

\* \* \*

**EXTENSION OF TIME:**

**Docket A-103-12**

East 123rd Street Properties, Ltd. — 1862 East 123rd Street:

A motion is in order at this time to grant the Appellant two (2) weeks in which to apply for permits, 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. Gallagher and seconded by Mr. Denk.

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

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**Docket A-104-12**

East 123rd Street Properties, Ltd. — 1885 Coltman Road:

A motion is in order at this time to DENY the request for additional time and to REMAND the property to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Denk.

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

\* \* \*

**APPROVAL OF RESOLUTIONS:**

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

- A-314-12 — William Deloney
- A-5-13 — Mirela Farcas
- A-6-13 — Jason Hager

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

\* \* \*

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

- A-331-12 — International Union of Operating Engineers
- A-334-12 — Dolores Robinson-Woods (AMENDED)

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

\* \* \*

Separate motions were entered by Mr. Maschke and seconded by Mr. Bradley for Approval and Adoption

of the Resolutions as presented by the Secretary for the following Dockets respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-333-12 Cuyahoga County
- A-1-13 — Shaughn Hubbard
- A-2-13 — Lourdes Gonzalez
- A-79-13 — Sheila Alridge

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

\* \* \*

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

- A-335-12 — Tika Fufuka
- A-338-12 — Harold Chapman
- A-339-12 — Pleasant Properties L.P.
- A-342-12 — GS Real, LLC
- A-3-13 — Tatyana Stupnitski

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

\* \* \*

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

- A-340-12 — Mt. Pleasant Homes III L.P.
- A-341-12 — Mt. Pleasant Homes III L.P.
- A-343-12 — Kevin & Alandr  Jackson

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

\* \* \*

**APPROVAL OF MINUTES:**

Separate motions were entered by Mr. Bradley and seconded by Mr. Gallagher 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):

March 27, 2013

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

\* \* \*

JOSEPH F. DENK  
Chairman

**PUBLIC NOTICE**

NONE

**NOTICE OF PUBLIC HEARING****Notice of Public Hearing  
By the Council Committee  
On City Planning**

**Mercedes Cotner  
Committee Room 217  
City Hall, Cleveland, Ohio  
On Wednesday, April 24, 2013  
1:00 p.m.**

Notice is hereby given to all interested property owners that the Council Committee on City Planning will hold a public hearing in the Mercedes Cotner Committee Room 217, City Hall, Cleveland, Ohio, on Wednesday, April 24, 2013, at 1:00 p.m., to consider the following ordinances now pending in the Council:

**Ord. No. 133-13.**

By Council Member Zone.  
An ordinance changing the Use and Height Districts of lands located on the southwest corner of Fulton Road and Bailey Avenue to Two Family Residential, and a 'I' Height District or a Local Retail Business District as indicated on the attached map (Map Change No. 2402).

**Ord. No. 196-13.**

By Council Member J. Johnson.  
An emergency ordinance designating the Jonell Centre (formerly the Garfield Savings Bank and the Cleveland Trust Company) as a Cleveland Landmark.

**Ord. No. 197-13.**

By Council Member J. Johnson.  
An emergency ordinance designating the Morison Avenue Missionary Baptist Church (formerly the Morison Avenue Communal Baths) as a Cleveland Landmark.

**Ord. No. 316-13.**

By Council Member J. Johnson.  
An emergency ordinance designating the Craig Motor Company Building (also known as the National Casket Company and the Kohn Building) as a Cleveland Landmark.

**Ord. No. 317-13.**

By Council Member J. Johnson.  
An emergency ordinance designating the Cleveland Masonic Temple as a Cleveland Landmark.

**Ord. No. 318-13.**

By Council Member Polensek.  
An emergency ordinance designating Villa Angela-St. Joseph High School as a Cleveland Landmark.

**Ord. No. 319-13.**

By Council Member J. Johnson.  
An emergency ordinance designating the Fine Arts Building as a Cleveland Landmark.

**Ord. No. 320-13.**

By Council Member Brancatelli.  
An ordinance to change the Use, Area and Height Districts of land located at Pershing and Interstate 77 to General Industry, an 'A' Area District and a 3 Height District (Map Change No. 2405).

All interested persons are urged to be present or to be represented at the above time and place.

Phyllis E. Cleveland, Chair  
Committee on City Planning

April 10, 2013 and April 17, 2013

**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."

**FRIDAY, MAY 3, 2013**

**File No. 65-13 — Water Main Replacement On Hickory Lane in the City of Seven Hills, Ohio,** for the Division of Water, Department of Public Utilities and as authorized by Ordinance No. 1727-12 passed by the Council of the City of Cleveland, February 4, 2013.

\*THERE WILL BE A **NON-REFUNDABLE FEE FOR PLANS AND SPECIFICATIONS IN THE AMOUNT OF ONE HUNDRED DOLLARS (\$100.00) ONLY IN THE FORM OF A CASHIER'S CHECK OR A MONEY ORDER (NO COMPANY CHECKS, NO CASH AND NO CREDIT CARDS WILL BE ACCEPTED TO PURCHASE PLANS).**  
THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY, APRIL 18, 2013 AT 2:30 P.M. THE CARL B. STOKES PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, 4TH FLOOR ATRIUM CONFERENCE ROOM, CLEVELAND, OHIO 44114.**

\*Bidders must purchase plans and specifications directly from the Office of the Commissioner of Purchases and Supplies. Only registered Plan Holders will receive Addenda. Bids cannot be accepted from Bidders who only purchase plans from other entities such as Plan Rooms and/or who fail to register to be on the City of Cleveland Plan Holders List.

**File No. 66-13 — Purchase of Labor and Materials for the Repair of and Purchase of Repairs Parts for Pumps, Saws and Small Engines,** for the Division of Water, Department of Public Utilities and as authorized by Section 129.25 of the Codified Ordinances of Cleveland, Ohio, 1976..

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY, APRIL 18, 2013 AT 10:30 A.M. THE DISTRIBUTION AND MAINTENANCE PIPE REPAIR CONFERENCE ROOM, 4600 HARVARD AVENUE, CLEVELAND, OHIO 44105.**

April 10, 2013 and April 17, 2013

**WEDNESDAY, MAY 22, 2013**

**File No. 67-13 — Labor and Materials to Maintain/Repair/Refurbish Various Material Handling Equipment,** for the Division of Water, Department of Public Utilities and as authorized by Ordinance No. 1630-12 passed by the Council of the City of Cleveland, December 3, 2012.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY, APRIL 18, 2013 AT 10:00 A.M. THE CARL B. STOKES PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, 4TH FLOOR ATRIUM CONFERENCE ROOM, CLEVELAND, OHIO 44114.**

**File No. 68-13 — Labor and Materials to Test, Inspect, Maintain, Repair, Enhance or Replace Electronic Security Systems,** for the Division of Water, Department of Public Utilities and as authorized by Ordinance No. 1216-11 passed by the Council of the City of Cleveland, October 10, 2011.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY, APRIL 18, 2013 AT 11:00 A.M. THE CARL B. STOKES PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, 4TH FLOOR ATRIUM CONFERENCE ROOM, CLEVELAND, OHIO 44114.**

April 10, 2013 and April 17, 2013

**ADOPTED RESOLUTIONS  
AND ORDINANCES****Res. No. 507-13.**

**By Council Member Polensek.**  
An emergency resolution objecting to the transfer of ownership of a C1 and C2 Liquor Permit to 910 East 185th Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for the

transfer of ownership of a C1 and C2 Liquor Permit from Busy Store, Inc., 910 East 185th Street, Cleveland, Ohio 44119, Permanent Number 1143619 to Niju Investments, LLC, 910 East 185th Street, Cleveland, Ohio 44119, Permanent Number 63817750050; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

Whereas, the applicant does not qualify to be a permit holder and/or has demonstrated that he has operated his liquor business in disregard of the laws, regulations or local ordinances of this state or any other state; and

Whereas, the place for which the permit is sought has not conformed to the building, safety or health requirements of the governing body of this County or City; and

Whereas, the place for which the permit is sought is so arranged or constructed that law enforcement officers or agents of the Department of Liquor Control are prevented reasonable access to the establishment; and

Whereas, the place for which the permit is sought is so located with respect to the neighborhood that it substantially interferes with public decency, sobriety, peace or good order; and

Whereas, this objection is based on other legal grounds as set forth in Revised Code Section 4303.292; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, prosperity, safety and welfare pursuant to Section 4303.26 of the Ohio Revised Code. Council's objection to said permit must be received by the Director of Liquor Control within 30 days of notification; now, therefore,

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

**Section 1.** That Council does hereby record its objection to the transfer of ownership of a C1 and C2 Liquor Permit from Busy Store, Inc., 910 East 185th Street, Cleveland, Ohio 44119, Permanent Number 1143619 to Niju Investments, LLC, 910 East 185th Street, Cleveland, Ohio 44119, Permanent Number 63817750050; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

**Section 2.** That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

**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 April 8, 2013.  
Effective April 10, 2013.

**Res. No. 508-13.**

**By Council Member Polensek.**

**An emergency resolution withdrawing objection to the renewal of a D5 Liquor Permit at 16826 Lakeshore Boulevard and repealing Resolution No. 1283-11, objecting to said renewal.**

Whereas, this Council objected to a D5 Liquor Permit to 16826 Lakeshore Boulevard by Resolution No. 1283-12 adopted by the Council on September 10, 2012; and

Whereas, this Council wishes to withdraw its objection to the above renewal and consents to said renewal; 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 D5 Liquor Permit to 169, LLC, 16826 Lakeshore Boulevard, Cleveland, Ohio 44110, Permanent Number 6548378 be and the same is hereby withdrawn and Resolution No. 1283-12, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate renewal 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 April 8, 2013.  
Effective April 10, 2013.

**Res. No. 509-13.**

**By Council Member Kelley.**

**An emergency resolution withdrawing objection to the transfer of stock of a C1 Liquor Permit at 4380 State Road and repealing Resolution No. 1136-12, objecting to said transfer.**

Whereas, this Council objected to the transfer of stock of a C1 Liquor Permit to State Road Food & Beverage, Inc., DBA Save More Mart, 4380 State Road, Cleveland, Ohio 44109, Permanent No. 8517121 by Resolution No. 1136-12 adopted by the Council on August 8, 2012; 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 a C1 Liquor Permit to State Road Food & Beverage, Inc., DBA Save More Mart, 4380 State Road, Cleveland, Ohio 44109, Permanent No. 8517121, be and the same is hereby withdrawn and Resolution No. 1136-12, 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 April 8, 2013.  
Effective April 10, 2013.

**Res. No. 515-13.**

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

**An emergency resolution in support of Mayor Jackson, Mayors Against Illegal Guns, the National Council of Jewish Women, States United to Prevent Gun Violence and Ohio Coalition Against Gun Violence, and others, in their fight against gun violence, and calling upon Congress to take immediate action to strengthen the national background check system and enact common sense gun laws in order to help reduce gun violence in the United States.**

Whereas, gun violence in the United States has escalated to the point of being epidemic; and

Whereas, Congress has a chance to act now to strengthen the nation's gun laws and legislate national background checks; and

Whereas, a common sense legislative agenda includes federal legislation that will; require every gun buyer to pass a criminal background check; get military-style assault weapons and high-capacity magazines off the streets; and make gun trafficking a federal crime; and

Whereas, Mayor Jackson has joined over 900 mayors nationwide who support stronger gun laws; and

Whereas, law enforcement officials, faith leaders, survivors of gun violence and other United States citizens want Congress to act immediately to help reduce gun violence; and

Whereas, Ohio's Representatives and Senators in Congress must heed the country's call to action and use their legislative powers to help end gun violence; 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 Mayor Jackson, Mayors Against Illegal Guns, the National Council of Jewish Women, States United to Prevent Gun Violence and Ohio Coalition Against Gun Violence, and others, in their fight against gun violence, and calls upon Congress to take immediate action to strengthen the national background check system and enact common sense gun laws in order to help reduce gun violence in the United States.

**Section 2.** That the Clerk is directed to send copies of this resolution to President Barack Obama, all members of the U.S. Congress and representatives of the National Council of Jewish Women, States United to Prevent Gun Violence and Ohio Coalition Against Gun Violence.

**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 April 8, 2013.

Effective April 10, 2013.

**Res. No. 516-13.**  
**By Council Members Cleveland, Westbrook, Sweeney, Kelley, K. Johnson, Mitchell, Brady, Pruitt, Brantelli, Dow, Zone, Keane and Reed.**  
**An emergency resolution supporting the Service Employees International Union, Local 1 janitors displaced after cleaning The Plain Dealer office building for over three decades, and urging The Plain Dealer to put these janitors back to work and ensure that any cleaning contractor it hires respects the unionizing rights of workers and maintains an acceptable standard of wages and benefits.**

Whereas, this Council believes that all workers in the City of Cleveland should be paid enough to support their families; and

Whereas, this Council is concerned about the increasing disparity in our City between the wealthy and the poor, and the existence of too many low-wage jobs keeps citizens in a cycle of poverty; and

Whereas, many of the working poor are in the service sector, the fastest growing portion of our economy; and

Whereas, this Council adopted Resolution No. 417-12 last March 26, 2012 that supported and encouraged the rights of janitors to a livable wage, health insurance, job security, safe working conditions and union contract, and urged owners of local office buildings to recognize the hard work of those in their buildings represented by the Service Employees International Union, Local 1 (SEIU Local 1); and

Whereas, SEIU, Local 1 has represented janitors at The Plain Dealer building for over three decades, and janitors have established a standard for wages and benefits in Downtown Cleveland through their union; and

Whereas, long term employees deserve consideration and respect; and

Whereas, on March 8, 2013 The Plain Dealer replaced the janitors with non-union workers; and

Whereas, The Plain Dealer negotiated in good faith with other unions representing employees at the newspaper; and

Whereas, The Plain Dealer should negotiate in good faith with SEIU, Local 1 to put these displaced janitors back to work instead of hiring a new cleaning contractor with non-union workers; 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 Service Employees International Union, Local 1 janitors dis-

placed after cleaning The Plain Dealer office building for over three decades, and urging The Plain Dealer to put these janitors back to work and ensure that any cleaning contractor it hires respects the unionizing rights of workers and maintains an acceptable standard of wages and benefits.

**Section 2.** That the Clerk of Council is directed to transmit copies of this resolution to Yanela Sims, SEIU, Local 1 and Terrance C. Z. Egger, President, Publisher and CEO, The Plain Dealer.

**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.

Passed April 8, 2013.

Effective April 10, 2013.

**Res. No. 517-13.**  
**By Council Members Sweeney and Zone.**

**An emergency resolution supporting Ohio's Energy Efficiency Resource and Renewable Portfolio Standards, and urging Governor Kasich and the Ohio General Assembly to preserve Ohio's cost-saving energy efficiency laws and renewable energy laws.**

Whereas, the City of Cleveland has embraced sustainability, renewable energy, and energy efficiency through a series of initiatives and actions over the past decade, including creating Sustainable Cleveland 2019 and passing anti-idling legislation and wind turbine zoning legislation; and

Whereas, important energy efficiency investments have saved our City money and energy, and put local citizens to work; and

Whereas, energy efficiency is an important way to save taxpayer money and strengthen the City of Cleveland's bottom line, cutting energy waste from our budget; and

Whereas, the American Council for an Energy Efficient Economy has established that for every million dollars spent on energy efficiency, 21 jobs are created; for every million spent on traditional energy sources only 7 jobs are created; and

Whereas, the American Council for an Energy Efficient Economy estimates that energy efficiency programs across the country cost customers only 2.5 cents per kilowatt hour, while the cost of new coal generation resources with the appropriate transmission and distribution improvements cost 11 cents per kilowatt hour; and

Whereas, energy efficiency results in local investment because it is focused on buildings, industrial operations, and homes within our cities meaning that dollars spent benefit the local economy; and

Whereas, current Ohio law requires utilities to participate in energy efficiency programs that have been shown to reduce Ohio's energy consumption, encourage the development of energy efficiency technologies within Ohio, and create local jobs; and

Whereas, energy efficiency investments pursuant to Ohio's Energy Efficiency Resource Standard are made only when the investments are cost-effective, meaning the savings for consumers exceed the costs of the investments; and

Whereas, the costs consumers and businesses pay for these energy efficiency programs is far outweighed by the savings they provide; and

Whereas, Ohio's Efficiency Resource Standard is under threat, and some would turn back the significant progress made since the adoption of Senate Bill 221 in 2008, and

Whereas, rolling back or freezing Ohio's energy efficiency standard will increase energy costs for the City of Cleveland, its citizens, and its businesses in a time of recovery from the worst recession since the Great Depression; and

Whereas, current Ohio law requires utilities to purchase or generate energy from renewable sources that have been shown to reduce Ohio's energy reliance on dirty forms of energy, encourage the development of renewable energy businesses in Ohio, and create local jobs; and

Whereas, the Public Utilities Commission of Ohio supports a mix of generation resources, including renewable, to minimize the risks, including price spikes, associated with an exclusive reliance on any one type of electric generation; and

Whereas, Ohio is home to over 400 companies that self-identify as advanced energy businesses and collectively employ over 25,000 Ohio residents, according to Advanced Energy Economy Ohio; and

Whereas, 25,410 Ohioans were employed across 22 industry segments in the advanced energy industry in 2010 - the most recent year data is available - equivalent to Ohio employment in the agriculture/forestry and mining categories combined; and

Whereas, according to the American Wind Energy Association, Ohio has over 50 companies in the Wind Manufacturing companies supply chain, and Cuyahoga County has more than any in the state; and

Whereas, 102 MW of Wind was added to Ohio in 2011 and 308 in 2012, representing the largest capital outlays in state annually; and

Whereas, outside interests are seeking to have the state's Renewable Portfolio Standard halted, turning back significant progress made since the adoption of Senate Bill 221 in 2008; and

Whereas, rolling back of Ohio's Renewable Portfolio Standard will have significant impacts on Ohio's public health, economy, and jobs; 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 Ohio's Energy Efficiency Resource and Renewable Portfolio Standards, and urging Governor Kasich and the Ohio General Assembly to preserve Ohio's cost-saving energy efficiency laws and renewable energy laws.

**Section 2.** That the Clerk of Council is directed to transmit copies of this resolution to Governor John Kasich, William Batchelder, the Speaker of the House, Keith Faber, the President of the Senate, Peter Stautberg, Chair of the Ohio House Public Utilities Committee, William Seitz, the Chair of the Ohio Senate Public Utilities Committee, all members of the Ohio House Public Utilities Committee, and all members of the Ohio Senate Public Utilities 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.

Passed April 8, 2013.  
Effective April 10, 2013.

**Ord. No. 314-13.**

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

**An emergency ordinance authorizing the purchase by one or more requirement contracts of water mains, fire hydrants, water main appurtenances, service connections, underground enclosures, concrete repair, and tree lawn restoration, including material, labor, and installation for the Division of Water, Department of Public Utilities, for a period up to two years.**

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

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

**Section 1.** That the Director of Public Utilities is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a period up to two years of the necessary items of water mains, water main appurtenances, fire hydrants, service connections, underground enclosures, concrete repair, and tree lawn restoration, including material, labor, and installation 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 Water, Department of Public Utilities. 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.

**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 2002, RL 2013-5)

**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 Utilities 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 April 8, 2013.  
Effective April 10, 2013.

**Ord. No. 358-13.**

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

**An emergency ordinance authorizing the Director of City Planning to enter into one or more contracts with LAND Studio, Inc. for professional services necessary to manage the City's public art program in 2013, for a period up to one year, with a one-year option to renew, exercisable by the Director of City Planning.**

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 City Planning is authorized to enter into one or more contracts with LAND Studio, Inc. for professional services necessary to manage the City's art program in 2013 on the basis of its proposal dated January 23, 2013, in an amount not to exceed \$50,000, for the Department of City Planning, for a period up to one year, with a one-year option to renew, exercisable by the Director of City Planning. The contract or contracts shall be paid from Fund No. 01-0110-6380, RQS 0110, RL 2013-37.

**Section 2.** That the contract or contracts authorized above 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.

Passed April 8, 2013.  
Effective April 10, 2013.

**Ord. No. 364-13.**

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

**An emergency ordinance authorizing the Director of Public Utilities to employ one or more professional consultants to provide environmental, health, safety, sustainability, engineering, and other services needed for the Divisions of Water, Water Pollution Control and Cleve-**

**land Public Power, Department of Public Utilities, for a period up to two years.**

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

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

**Section 1.** That the Director of Public Utilities is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to provide environmental, health, safety, sustainability, and engineering services including but not limited to employee health and safety services, geotechnical services, industrial hygiene services, materials testing and analyses, water treatment process analyses, laboratory testing services, hazardous substance identification and analyses, forensic investigations, energy audits, environmental sampling and analysis, and other related professional consulting services needed for the Divisions of Water, Water Pollution Control and Cleveland Public Power, Department of Public Utilities, for a period up to two years.

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

**Section 2.** That the cost of the contract or contracts authorized shall be paid from Fund Nos. 52 SF 001, 54 SF 001, and 58 SF 001, Request No. RQS 2002, RL 2013-8.

**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 April 8, 2013.  
Effective April 10, 2013.

**Ord. No. 513-13.**

**By Council Member Sweeney.**

**An emergency ordinance to amend Section 551.022 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1657-09, passed December 7, 2009, relating to solid waste collection fee fixed rate.**

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 551.022 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance

No. 1657-09, passed December 7, 2009, is amended to read as follows:

**Section 551.022 Solid Waste Collection Fee Fixed Rate**

(a) All residential properties shall be charged a monthly rate of \$8.75 per unit for the collection and disposal of solid waste. The per unit fee shall be discounted by fifty percent (50%) for a residential property owner that receives a reduction in their water rate under the homestead provisions of Chapter 535.

(b) The fee shall be included on the property owner's water bill and shall be due when the water charges are due.

(c) *Exemptions.*

(1) A residential property owner that resides in a multiple unit dwelling where the other units of the dwelling are vacant and not used for rental purposes, may request an exemption from the per-unit charge for the unoccupied units.

(2) If a residential property owner resides in their own property and that property has been unoccupied for a consecutive period of sixty (60) or more days, the owner may request a fifty percent (50%) discount from the per-unit charge during that time.

(d) The Director of Public Works shall create rules and regulations establishing guidelines for vacant properties.

(e) As used in this section:

(1) Residential property" means real property that is improved by a building or other structure that has one (1) to four (4) dwelling units.

(2) "Dwelling unit" means a room or group of rooms located within a dwelling structure and forming a single habitable unit with living, sleeping, cooking, eating and sanitary facilities used or intended to be used by one (1) family.

(3) "Dwelling structure" means a building or structure used or designed or intended to be used, all or in part, for residential purposes.

**Section 2.** That existing Section 551.022 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1657-09, passed December 7, 2009, is repealed.

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

Passed April 8, 2013.

Effective April 10, 2013.

**Ord. No. 514-13.**

**By Council Member Pruitt.**

**An emergency ordinance to add the name Vemel Whalen Way as a secondary name to Glendale Avenue between Lee Road and East 169th Street.**

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

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

**Section 1.** That, notwithstanding and as an exception to the Codified Ordinances of the City of Cleveland, 1976, the name Vemel Whalen Way shall be added as a secondary name to Glendale Avenue between Lee Road and East 169th Street.

**Section 2.** 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 April 8, 2013.

Effective April 10, 2013.

**REPRINT**

**Ord. No. 67-13.**

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

**An emergency ordinance authorizing the Director of the City Planning Commission to apply for and accept a grant from the Robert Wood Johnson Foundation and PEW Charitable Trusts for the Health Impact Assessment Capacity Building Program; and authorizing the Director to enter into one or more contracts with various agencies, entities, or individuals to implement the grant.**

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

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

**Section 1.** That the Director of City Planning, in coordination with the Director of Public Health, is authorized to apply for and accept a grant in the approximate amount up to \$250,000, and any other funds that may become available during the grant term from the Robert Wood Johnson Foundation and PEW Charitable Trusts to conduct the Health Impact Assessment Capacity Building Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the Health Impact Assessment Factsheet and the 2012 Call for Proposal book for the grant contained in the file described below.

**Section 2.** That the Health Impact Assessment Factsheet and the 2012 Call for Proposal book for the grant, presented to the Finance Committee of this Council at a public hearing on this legislation and set forth in File No. 67-13-A, is made a part of this ordinance as if fully rewritten, is approved in all respects, and shall not be changed without additional legislative authority.

**Section 3.** That the Director of the City Planning Commission is authorized to enter into one or more contracts with various agencies, entities, or individuals to provide advisory services to implement the grant as described in the file.

**Section 4.** That, unless expressly prohibited by the grant agreement, under Section 108(B) of the Charter, purchases made under the grant agreement may be made through cooperative arrangements with other governmental agencies. The Director of the City Planning Commission may sign all documents and do all things that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process. The contracts will be paid from the fund or funds to which are credited any grant funds accepted under this ordinance.

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

Passed April 1, 2013.

Effective April 4, 2013.

**COUNCIL COMMITTEE MEETINGS**

**Monday, April 15, 2013**

**9:30 a.m.**

**Public Parks, Properties & Recreation Committee:** Present: K. Johnson, Chair; Conwell, Vice Chair; Brancatelli, Cimperman, Dow, Polensek.

**11:00 a.m.**

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

**2:00 p.m.**

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

**Tuesday, April 16, 2013**

**9:30 a.m.**

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

**1:30 p.m.**

**Sustainability Sub-Committee:** Present: Zone, Chair; Westbrook, Vice Chair; J. Johnson, Mitchell. *Authorized Absence:* Cummins.

**Wednesday, April 17, 2013**

**10:00 a.m.**

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

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