

The City Record

Official Publication of the Council of the City of Cleveland



December the Sixth, Two Thousand and Six

Frank G. Jackson
Mayor

Martin J. Sweeney
President of Council

Emily Lipovan
City Clerk, Clerk of Council

Ward	Name
1	Nina Turner
2	Robert J. White
3	Zachary Reed
4	Kenneth L. Johnson
5	Phyllis E. Cleveland
6	Patricia J. Britt
7	Fannie M. Lewis
8	Sabra Pierce Scott
9	Kevin Conwell
10	Roosevelt Coats
11	Michael D. Polensek
12	Anthony Brancatelli
13	Joe Cimperman
14	Joseph Santiago
15	Brian J. Cummins
16	Kevin J. Kelley
17	Matthew Zone
18	Jay Westbrook
19	Dona Brady
20	Martin J. Sweeney
21	Michael A. Dolan

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Martin J. Sweeney

Ward	Name	Residence	
1	Nina Turner.....	16204 Sunny Glen Avenue	44128
2	Robert J. White.....	9703 Cardwell Avenue	44105
3	Zachary Reed.....	3734 East 149th Street	44120
4	Kenneth L. Johnson.....	2948 Hampton Road	44120
5	Phyllis E. Cleveland.....	2369 East 36th Street	44105
6	Patricia J. Britt.....	12402 Britton Drive	44120
7	Fannie M. Lewis.....	7416 Star Avenue	44103
8	Sabra Pierce Scott.....	1136 East 98th Street	44108
9	Kevin Conwell.....	10647 Ashbury Avenue	44106
10	Roosevelt Coats.....	1775 Cliffview Road	44112
11	Michael D. Polensek.....	17855 Brian Avenue	44119
12	Anthony Brancatelli.....	6924 Ottawa Road	44105
13	Joe Cimperman.....	3053 West 12th Street	44113
14	Joseph Santiago.....	3169 West 14th Street	44109
15	Brian J. Cummins.....	3104 Mapledale Avenue	44109
16	Kevin J. Kelley.....	6608 Woodhaven Avenue	44144
17	Matthew Zone.....	1228 West 69th Street	44102
18	Jay Westbrook.....	1278 West 103rd Street	44102
19	Dona Brady.....	1272 West Boulevard	44102
20	Martin J. Sweeney.....	3632 West 133rd Street	44111
21	Michael A. Dolan.....	16519 West Park Road	44111

City Clerk, Clerk of Council – Emily Lipovan, 216 City Hall, 664–2840
First Assistant Clerk – Sandra Franklin

MAYOR – Frank G. Jackson

Ken Silliman, Secretary to the Mayor, Chief of Staff
Darnell Brown, Executive Assistant to the Mayor, Chief Operating Officer
Valarie J. McCall, Executive Assistant to the Mayor, Chief of Government Affairs
Tracy Y. Martin, Executive Assistant to the Mayor, Chief of Education
Maureen Harper, Executive Assistant to the Mayor, Chief of Communications
_____, Executive Assistant to the Mayor, Press Secretary
Debra Linn Talley, Director, Office of Equal Opportunity

DEPT. OF LAW – Robert J. Triozzi, Director, Richard F. Horvath, Chief Corporate Counsel, Thomas J. Kaiser, Chief Trial Counsel, Barbara A. Langhenry, Chief Counsel, Rm. 106
Karen E. Martines, Law Librarian, Room 100

DEPT. OF FINANCE – Sharon Dumas, Director, Room 104;
Frank Badalamenti, Manager, Internal Audit

DIVISIONS: Accounts – Richard W. Sensenbrenner, Commissioner, Room 19
Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122
City Treasury – Algeron Walker, Treasurer, Room 115
Financial Reporting and Control – James Gentile, Controller, Room 18
Information Technology and Services – 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 – Julius Ciaccia, Director, 1201 Lakeside Avenue

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

DEPT. OF PORT CONTROL – Ricky D. Smith, Director

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

DEPT. OF PUBLIC SERVICE – Jomarie Wasik, Director, Room 113

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

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

DIVISIONS: Air Quality – Richard L. Nemeth, Commissioner
Correction – Robert Tasky, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.
Environment – Willie Bess, Commissioner, Mural Building, 1925 St. Clair Ave.
Health – Anjou Parekh, Commissioner, Mural Building, 1925 St. Clair Ave.

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

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

DEPT. OF PARKS, RECREATION & PROPERTIES – Michael Cox, Director

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

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

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

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Trudy Hutchinson, Director, Room 121

DEPT. OF ECONOMIC DEVELOPMENT – Brian A. Reilly, Director, Room 210

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

DEPT. OF CONSUMER AFFAIRS – Angel Guzman, Director

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

CIVIL SERVICE COMMISSION – Room 119, Reynaldo Galindo, President; Rev. Earl Preston, Vice President; Lucille Ambroz, Secretary; Members: Diane M. Downing, Michael L. Nelson.

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: John Myers, Ozell Dobbins, Joan Shaver Washington, Tim Donovan, _____, Secretary.

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

BOARD OF REVISION OF ASSESSMENTS – Law Director Robert J. Triozzi, President; Finance Director Sharon Dumas, Secretary; Council President Martin J. Sweeney.

BOARD OF SIDEWALK APPEALS – Service Director Jomarie Wasik, Law Director Robert J. Triozzi; Councilman _____.

BOARD OF REVIEW – (Municipal Income Tax) – Law Director Robert J. Triozzi; Utilities Director _____; Council President Martin J. Sweeney.

CITY PLANNING COMMISSION – Room 501 – Robert N. Brown, Director; Anthony J. Coyne, Chairman; David Bowen, Lillian Kuri, Lawrence A. Lumpkin, Gloria Jean Pinkney, Rev. Sam Edward Small, Council Member Joe Cimperman.

FAIR CAMPAIGN FINANCE COMMISSION – Chris Warren, C. Ellen Connolly, Hillary S. Taylor.

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

FAIR HOUSING BOARD – Charles See, Chair; _____, Vice Chair; Daniel Conway, Doris Honsa, Lisa Camacho.

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 Robert J. Triozzi; Chairman; Finance Director Sharon Dumas; Council President Martin J. Sweeney; Councilman Kevin Kelley; Councilman Nina Turner.

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

CLEVELAND LANDMARKS COMMISSION – Room 519 – India Pierce Lee, Chair; Laura M. Noble, Vice Chair; Robert Brown, Thomas Coffey, Jennifer Coleman, Lee, Michael Rastatter, Jr., John Torres, Ari Maron, N. Kurt Wiebusch, Council Member Joe Cimperman, Robert Jackimowicz; Robert Keiser, Secretary.

AUDIT COMMITTEE – Robert Rawson, Chairman; Yvette Ittu, Debra Janik, Bracy Lewis, Don Neebes, Council President Martin J. Sweeney; Law Director Robert J. Triozzi.

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

Judge	Courtroom
Presiding and Administrative Judge Larry A. Jones	14B
Judge Ronald B. Adrine	15A
Judge Emanuella Groves	13A
Judge Kathleen Ann Keough	13D
Judge Anita Laster Mays	14C
Judge Lauren C. Moore	14A
Judge Charles Patton, Jr.	12B
Judge Raymond L. Pianka (Housing Court Judge)	13B
Judge Michael Ryan	12A
Judge Angela R. Stokes	15C
Judge Joan Synenberg	13C
Judge Pauline H. Tarver	12C
Judge Joseph J. Zone	14D

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

The City Record



OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

Vol. 93

WEDNESDAY, DECEMBER 6, 2006

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CITY COUNCIL

MONDAY, DECEMBER 4, 2006

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216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 2006-2009

MONDAY—Alternating

9:30 A.M. — **Public Parks, Property & Recreation Committee:** Johnson, Chair; White, Vice Chair; Brancatelli, Cummins, Kelley, Polensek, Turner.

9:30 A.M. — **Health & Human Services Committee:** Britt, Chair; Cleveland, Vice Chair; Conwell, Kelley, Reed, Santiago, Westbrook.

11:00 A.M. — **Public Service Committee:** Brady, Chair; Turner, Vice Chair; Cleveland, Cummins, Johnson, Polensek, Reed, Santiago, White.

11:00 A.M. — **Legislation Committee:** Cleveland, Chair; Dolan, Vice Chair; Cimperman, Lewis, Pierce Scott, Reed, White.

MONDAY

2:00 P.M. — **Finance Committee:** Sweeney, Chair; Cimperman, Vice Chair; Brady, Brancatelli, Britt, Coats, Conwell, Pierce Scott, Westbrook, White, Zone.

TUESDAY

9:30 A.M. — **Community and Economic Development Committee:** Pierce Scott, Chair; Brancatelli, Vice Chair; Brady, Cimperman, Cummins, Coats, Lewis, Westbrook, Zone.

1:30 P.M. — **Employment, Affirmative Action & Training Committee:** Lewis, Chair; Santiago, Vice Chair; Brancatelli, Coats, Conwell, Johnson, Turner.

WEDNESDAY—Alternating

10:00 A.M. — **Aviation & Transportation Committee:** Kelley, Chair; Westbrook, Vice Chair; Brancatelli, Britt, Cleveland, Dolan, Turner.

10:00 A.M. — **Public Safety Committee:** Conwell, Chair; Brady, Vice Chair; Britt, Coats, Cummins, Kelley, Polensek, Santiago, Turner.

WEDNESDAY—Alternating

1:30 P.M. — **Public Utilities Committee:** Zone, Chair; Reed, Vice Chair; Cleveland, Cummins, Dolan, Kelley, Polensek, Santiago, Westbrook.

1:30 P.M. — **City Planning Committee:** Cimperman, Chair; Westbrook, Vice Chair; Conwell, Dolan, Lewis, Reed, Zone.

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

Rules Committee: Sweeney, Chair; Cleveland, Kelley, Pierce Scott, Polensek.

Personnel and Operations Committee: Sweeney, Chair; Britt, Kelley, Pierce Scott, Santiago, Westbrook, White.

Mayor's Appointment Committee: Coats, Chair; Pierce Scott, Kelley, Sweeney, Westbrook.

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio

Monday, December 4, 2006

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

Council Members present: Brady, Brancatelli, Cimperman, Cleveland, Coats, Conwell, Cummins, Dolan, Johnson, Kelley, Lewis, Polensek, Reed, Santiago, Pierce Scott, Sweeney, Turner, Westbrook, White and Zone.

Also present were Mayor Frank G. Jackson; Ken Silliman, Chief of Staff; Darnell Brown, Chief Operating Officer; Valarie J. McCall, Chief of Governmental Affairs; Tracy Y. Martin, Chief of Education; Maureen Harper, Chief of Communications; Debra Linn Talley, Director of Equal Opportunity; Rebecca Schaltenbrand, Legislative Affairs; Directors Triozzi, Dumas, Ciaccia, Wasik, Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman, Griffin and Brown.

Pursuant to Ordinance No. 2926-76, prayer was offered by Pastor Mark Robbins of Evening Star Missionary Baptist Church, 9902 St. Clair Avenue, located in Ward 8. Pledge of Allegiance.

MOTION

On the motion of Council Member Zone, the reading of the minutes of the last meeting were dispensed

with and the journal approved. Seconded by Council Member Santiago.

FROM DEPARTMENT OF LIQUOR CONTROL

File No. 2060-06.

Re: Transfer of Ownership Application — 5144147 — Kimetra L. Leslie, d.b.a. Big Fahies Deli, 7535 Kinsman Avenue. (Ward 5). Received.

File No. 2061-06.

Re: Transfer of Ownership Application — 19449310060 — Dave's Supermarket, Inc., d.b.a. Dave's Supermarket, Lee Harvard Shopping Center, 16820 Harvard Avenue. (Ward 1). Received.

File No. 2062-06.

Re: Transfer of Ownership Application — 0124920 — Al Led LLC, d.b.a. Almira Beverage, 3312 West 105th Street, Unit A. (Ward 19). Received.

PLAT

File No. 2063-06.

Clinton Court Subdivision — Creating Lots 1 through 5 & Block "A" — Plat. (Ward 13).

Approved by Public Service and City Planning Committees.

Without objection, plat approved. Yeas 20. Nays 0.

CONDOLENCE RESOLUTIONS

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

Res. No. 2064-06—Dolphus "Dino" Hendrix.

Res. No. 2065-06—Laveria Carter.

CONGRATULATION RESOLUTIONS

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

Res. No. 2066-06—Jack Saul.

Res. No. 2067-06—Gary Failor.

RECOGNITION RESOLUTION

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

Res. No. 2068-06—Colleen Gilson.

WELCOME RESOLUTION

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

Res. No. 2069-06—Jeff Sodowsky.

**FIRST READING EMERGENCY
ORDINANCES REFERRED**

Ord. No. 2044-06.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of dry cell batteries, for the various divisions of City government.

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the term of one or two years for the necessary items of dry cell batteries in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Finance is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Finance by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118770)

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 Finance, Law; Committee on Finance.

Ord. No. 2045-06.

By Council Members Zone and Sweeney (by departmental request).

An emergency ordinance authorizing the issuance and sale of water revenue bonds of the city to pay costs of improvements to the waterworks system and to refund outstanding water revenue bonds to obtain debt service savings; autho-

rizing hedge agreements, supplemental indentures and other agreements related to water revenue bonds; authorizing and approving related matters.

Whereas, the City of Cleveland, Ohio, a municipal corporation and political subdivision of the State of Ohio, is authorized under Article XVIII of the Constitution of the State and the Charter of the City, among other things: (a) to own and operate the public utility referred to as the Waterworks System; (b) to make, from time to time, improvements to the Waterworks System; (c) to borrow money for the purpose of paying costs of those improvements and refunding outstanding bonds issued for that purpose; and (d) to issue additional bonds secured by a pledge of and lien on the Net Revenues of the Waterworks System on a parity with Water Revenue Bonds outstanding under the Indenture identified in Section 1; and

Whereas, this Council has determined that it is necessary to issue additional Water Revenue Bonds under the Indenture in order to finance costs of improvements to the Waterworks System and to refund certain Outstanding Revenue Bonds to obtain debt service savings, all as defined and provided in this Ordinance; and

Whereas, this Ordinance constitutes an emergency measure providing for the immediate preservation of public property, health and safety, and for the further reason that this Ordinance is required to be immediately effective to permit the issuance and sale of additional Water Revenue Bonds to fund contracts for the improvement of, and to obtain debt service savings for the benefit of, the Waterworks System and thereby provide for the usual daily operation of a municipal department; now, therefore,

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

Section 1. Definitions. In addition to the words and terms defined in the Indenture, the following words and terms shall have the following meanings, unless the context or use otherwise indicates:

"2007 Bonds" means the Bonds authorized to be issued under this Ordinance and the Indenture in one or more Series, sold under one or more Bond Purchase Agreements and secured under one or more Supplemental Indentures supplementing the Indenture to provide the terms of each Series. 2007 Bonds issued subsequent to December 31, 2007 shall include in their designation reference to the year in which they are issued, as provided in Section 2.

"Bonds" or "Water Revenue Bonds" means all Bonds issued and outstanding under the Indenture.

"Bond Purchase Agreement" means one or more purchase agreements between the City and the Original Purchasers with respect to the 2007 Bonds authorized by Section 3 of this Ordinance.

"Certificate of Award" means one or more certificates providing for the determination of the final terms of the 2007 Bonds of each Series, consistent with the requirements of this Ordinance including, without limitation, Section 3 of this Ordinance.

"Continuing Disclosure Agreement" means one or more agreements authorized by Section 12 of this Ordinance and to be in accordance with Rule 15c2-12 of the Securities and Exchange Commission.

"Credit Support Instrument" means an insurance policy, surety, letter of credit, standby bond purchase agreement or other credit enhancement, support or liquidity device used to enhance or provide for the security or liquidity of 2007 Bonds of any Series.

"Defeasance Agreement" means one or more agreements between the City and the Trustee authorized by Section 8 of this Ordinance concerning the defeasance of certain Outstanding Revenue Bonds using funds of the Water Division of the City.

"Defeasance Fund" means the fund, including the account or accounts therein, required to be maintained with the Trustee, as escrow agent.

"Defeased Bonds" means those Outstanding Bonds identified in the Defeasance Agreement.

"Escrow Agreement" means one or more agreements between the City and the Trustee, in its capacity as Escrow Agent, authorized by Section 6 of this Ordinance.

"Escrow Fund" means the fund, including the account or accounts therein, required to be maintained with the Trustee, in its capacity as Escrow Agent pursuant to the Escrow Agreement.

"Financial Advisor" means any financial advisory firm or firms retained by the Director of Finance of the City, from time to time, in connection with the 2007 Bonds or any Hedge Agreement.

"Hedge Agreement" has the meaning given in Section 9 of this Ordinance.

"Indenture" means the Amended and Restated Indenture, effective October 5, 2001, between the City and U.S. Bank National Association, as successor trustee, delivered under authority of Ordinance No. 2011-95 passed by the Council of the City on April 1, 1996 and the consent of the owners of 66-2/3% of the applicable Outstanding Revenue Bonds under the Indenture of Mortgage dated as of November 1, 1977, as supplemented and amended by the Supplemental Trust Indentures delivered with respect to the Outstanding Revenue Bonds and as to be supplemented and amended as provided in this Ordinance for the 2007 Bonds.

"Original Purchasers" means, with respect to each Series of 2007 Bonds, the financial institutions identified in the Certificate of Award for that Series.

"Outstanding Revenue Bonds" means Water Revenue Bonds of the City issued and outstanding, from time to time, under the Indenture and consisting on the date of introduction of this Ordinance of the following: Series G (currently outstanding in the amount of \$133,045,000), Series H (currently outstanding in the amount of \$14,470,000), Series I (currently outstanding in the amount of \$161,875,000), Series J (currently outstanding in the amount of \$63,345,000), Series K (currently outstanding in the amount of \$69,725,000), Series L (currently out-

standing in the amount of \$90,000,000), Series M (currently outstanding in the amount of \$172,335,000), and Series N (currently outstanding in the amount of \$64,480,000).

"Refunded Bonds" means those Outstanding Revenue Bonds designated in the Certificate of Award as the Water Revenue Bonds to be refunded with proceeds of the 2007 Bonds.

"Supplemental Indenture" means one or more Supplemental Indentures between the City and the Trustee securing the 2007 Bonds and authorized under Section 6 of this Ordinance.

Section 2. Authorization of the 2007 Bonds. This Council finds and determines it is necessary and proper and in the best interest of the City to issue the 2007 Bonds for the purpose of paying costs of improvements to the Waterworks System and refunding the Refunded Bonds. The 2007 Bonds may be issued in one or more Series and at the same time or different times, provided that the Bond Purchase Agreement for any Series of 2007 Bonds to be issued under this Ordinance shall be signed no later than two years from the date of passage of this Ordinance. The principal amount of each Series of 2007 Bonds is to be the amount set forth in the Certificate of Award authorized in Section 3. The aggregate principal amount of 2007 Bonds of all Series issued for the purpose of paying costs of improvements shall not exceed \$185,000,000. The aggregate principal amount of 2007 Bonds issued for the purpose of refunding the Refunded Bonds shall be the amount determined by the Director of Finance, based on the written advice of a Financial Advisor, to be necessary to refund the Refunded Bonds and to obtain aggregate net present value debt service savings with respect to the Refunded Bonds of not less than three percent (3%). The proceeds from the sale of each Series of 2007 Bonds shall be allocated, deposited and applied as provided in Section 4 of this Ordinance.

The 2007 Bonds may be issued in one or more separate Series, each bearing a distinctive designation, provided that the 2007 Bonds of each Series satisfy the requirements of this Ordinance. Separate Series of 2007 Bonds may be issued at the same or different times. The 2007 Bonds of each Series shall be designated as provided in the applicable Certificate of Award and shall include in the designation reference to the calendar year in which the applicable Series is issued. A separate Certificate of Award and a separate Supplemental Indenture may be delivered for each Series.

In the event that the Director of Finance, based on the written advice of a Financial Advisor, determines that the City's best interests will be served by causing a Series of 2007 Bonds to be obligations bearing interest at variable interest rates, then the Director of Finance is authorized to so specify in the Certificate of Award for that Series. If the Director of Finance so determines, then the method and procedure by which the variable rate of interest to be borne by the 2007

Bonds of that Series shall be determined as provided in the applicable Supplemental Indenture, whether by auction, by reference to a market index, by a remarketing agent or otherwise; provided that no Series of 2007 Bonds shall bear interest at a rate in excess of sixteen percent (16%) per year. Notwithstanding that limitation, a Series of 2007 Bonds held by a provider of a Credit Support Instrument may bear interest at a rate not in excess of twenty-five percent (25%) per year as provided in the agreement with the provider of the Credit Support Instrument. The Director of Finance may determine that the terms of a variable rate Series of 2007 Bonds may or may not permit the Holders to tender their variable rate 2007 Bonds for purchase by the City. If the Director of Finance designates any Series of 2007 Bonds as variable rate 2007 Bonds, and if the Holders of that Series of 2007 Bonds are to be entitled to tender those 2007 Bonds for purchase, then the Director of Finance shall also designate in the Certificate of Award for those variable rate 2007 Bonds, the tender agent or agents and the remarketing agent or agents, which designations shall be based on the determination of the Director of Finance, based on the written advice of a Financial Advisor, that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable. The Director of Finance is authorized to enter into agreements in connection with the delivery of the 2007 Bonds, and from time to time thereafter so long as the 2007 Bonds are outstanding, with providers of Credit Support Instruments, tender agents (which may be the Trustee), remarketing agents (which may be any of the Original Purchasers) and others as may be determined by the Director of Finance to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender and providing for payment of the purchase price of, or debt service on, the variable rate 2007 Bonds. In the event the variable rate 2007 Bonds are issued as auction rate obligations, the Director of Finance is authorized to enter into agreements with auction agents and others, or to cause the Trustee to enter into those agreements, based on the written advice of a Financial Advisor that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable. The Director of Finance is authorized to pay any fees associated with agreements entered into pursuant to this Section from proceeds of the 2007 Bonds, to the extent permitted by the Indenture, and from the Net Revenues of the Utility (as each term is defined in the Indenture).

The Director of Finance, in connection with the original issuance of any Series of 2007 Bonds, and

regardless of whether that Series of 2007 Bonds bears interest at variable or fixed rates, is authorized to contract for one or more Credit Support Instruments, and to pay the costs of Credit Support Instruments from proceeds of the 2007 Bonds, if she determines, based on the written advice of a Financial Advisor, that the Credit Support Instrument will result in a savings in the cost of the financing to the City.

The Refunded Bonds shall be designated by the Director of Finance in the Certificate of Award and shall consist of those Outstanding Revenue Bonds the refunding of which from proceeds of a Series of 2007 bonds will provide to the City net present value debt service savings of not less than three percent (3%). The Director of Finance may rely on the written advice of the Financial Advisor in making that determination. The Refunded Bonds shall be called for redemption or retired on the date or dates specified in the Certificate of Award. The redemption dates so specified shall be the dates required under the Code for compliance with Section 149(d) of the Code and other applicable federal tax laws.

Section 3. Sale of 2007 Bonds. The Director of Finance shall sign and deliver a Certificate of Award for the 2007 Bonds. In the event the 2007 Bonds are issued in more than one Series sold at different times, a separate Certificate of Award shall be signed and delivered for each separately delivered Series. The sale of the 2007 Bonds shall be awarded to the Original Purchasers selected by the Director of Finance and identified in the Certificate of Award, following consultation with the Director of Public Utilities and based on an evaluation of the qualifications of firms that have proposed to underwrite the 2007 Bonds. Each Certificate of Award shall determine the following, consistent with this Ordinance and the Indenture:

(a) the aggregate principal amount; provided that amount shall not exceed \$185,000,000 with respect to 2007 Bonds issued to fund improvements to the Waterworks System;

(b) the date or dates of the 2007 Bonds;

(c) the purchase price to be paid to the City by the Original Purchasers, which amount shall be not less than: (i) 97% of the amount determined by subtracting from the aggregate principal amount of the 2007 Bonds any aggregate original issue discount net of any aggregate original issue premium with respect to the 2007 Bonds, plus (ii) any accrued interest on the 2007 Bonds from their date to the date of their delivery to the Original Purchasers;

(d) whether any 2007 Bonds are subject to redemption or purchase prior to maturity and, with respect to 2007 Bonds bearing interest at fixed rates, the terms for the redemption or purchase of 2007 Bonds of the applicable Series by the City prior to maturity, consistent with Section 5;

(e) the dates on which principal of the 2007 Bonds is to be paid, which shall be not later than January 1, 2037, with an identification of

whether the payment is due by stated maturity or by mandatory sinking fund redemption of 2007 Bonds of a particular maturity;

(f) the interest rates to be borne by 2007 Bonds bearing interest at a fixed rate, the weighted average of which shall not exceed six percent (6%) as to 2007 Bonds of any Series, and the method by which the interest rate is to be determined for 2007 Bonds bearing interest at variable rates, consistent with Section 2;

(g) the particular Outstanding Revenue Bonds or portions thereof to be Refunded Bonds;

(h) the title and Series designation for the 2007 Bonds.

(i) the amount, if any, of proceeds of the sale of 2007 Bonds of any Series to be deposited in the Debt Service Reserve Fund in order to cause the balance therein to equal the Debt Service Reserve Requirement, if and to the extent required by the applicable Supplemental Indenture, and any determination as to whether a municipal bond insurance policy, bank letter or line of credit, or other form of credit or liquidity facility enhancing the security for 2007 Bonds of that Series shall be provided in lieu of cash in the Debt Service Reserve Fund;

(j) the Paying Agent; and

(k) whether any 2007 Bonds are to be secured by or payable from any Credit Support Instruments.

The Director of Finance may enter into one or more Bond Purchase Agreements with the Original Purchasers of 2007 Bonds setting forth the conditions for delivery of the 2007 Bonds that are consistent with this Ordinance, the Certificate of Award, and the Indenture and that are determined by the Director of Finance, based on the written advice of a Financial Advisor, to be customary for water revenue bonds issued by governmental entities, including, without limitation, representations as to the accuracy and completeness of information contained in the Official Statement of the City described in Section 12.

It is determined that the terms of the 2007 Bonds as so determined within the limitations set forth in this Ordinance and as so specified and set forth in the Certificate of Award will be in the best interest of the City and consistent with all legal requirements.

Section 4. Application of Proceeds of 2007 Bonds. The proceeds of the sale of the 2007 Bonds shall be deposited 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 to the credit of the Interest Account in the Debt Service Fund, the amount, if any, received by the City upon delivery of the 2007 Bonds as accrued interest on any 2007 Bonds from their dated date to the date of the delivery of and payment for those 2007 Bonds;

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

(d) to the Trustee, for deposit to the credit of any Escrow Fund established pursuant to any Escrow Agreement, any proceeds to be applied in accordance with the Escrow Agreement to refund the Refunded Bonds;

(e) to the City for deposit in the Construction Fund for the 2007 Bonds (to be established under the applicable Supplemental Indenture) the proceeds to be applied to pay costs of improvements to the Waterworks System, and to the Trustee for deposit in the Capitalized Interest Fund for the 2007 Bonds (to be established under the applicable Supplemental Indenture) any proceeds to be applied to pay interest on the 2007 Bonds during construction of the improvements (as specified in the applicable Supplemental Indenture);

(f) to the counterparty under any Hedge Agreement, any payment determined by the Director of Finance to be paid from the proceeds of the 2007 Bonds, including any termination payment in the event that the Director of Finance determines it is in the best interests of the City to terminate a Hedge Agreement relating to Outstanding Revenue Bonds; and

(g) to the Costs of Issuance Fund, to be created under the applicable Supplemental Indenture, such amounts as are needed to pay costs of issuing the 2007 Bonds and refunding the 2007 Bonds.

Provision shall be made in the Supplemental Indentures for the application of any amounts held in the funds and accounts established under the Indenture and no longer required for the security of Outstanding Revenue Bonds as a result of the Refunded Bonds no longer being Outstanding, or any amounts that otherwise are in excess of the required balances. Provisions may be made in the Supplemental Indentures for the creation of separate accounts within the funds established under the Indenture or Supplemental Indentures.

The proceeds from the sale of the 2007 Bonds are appropriated and shall be used for the purpose for which those 2007 Bonds are issued as provided in this Ordinance.

Section 5. Terms and Provisions Applicable to the 2007 Bonds.

(a) **Form; Exchange and Transfer.** All 2007 Bonds shall be issued in fully registered form. The 2007 Bonds initially shall be delivered only in book-entry form, 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 Supplemental Indenture.

(b) **Dates; Denominations.** The 2007 Bonds shall be dated as of the date or dates provided in the Certificate of Award. The 2007 Bonds of each Series shall be issued in the denominations permitted in the Supplemental Indenture.

(c) **Interest and Place of Payment.** The 2007 Bonds shall bear interest at their respective interest

rates specified in the Certificate of Award (or, in the case of variable rate 2007 Bonds, determined pursuant to the Supplemental Indenture). The 2007 Bonds of the same Series and same maturity may bear interest at different interest rates. The 2007 Bonds of each Series shall bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date. The principal and any redemption premium and the interest payable on each 2007 Bond shall be payable at the times, to the persons and in the manner set forth in, or referenced by, the Supplemental Indenture, including, without limitation, provisions thereof permitting special arrangements for payments to the Depository.

(d) **Maturities.** The 2007 Bonds shall mature on the principal retirement dates provided in the Certificate of Award.

(e) **Optional and Mandatory Redemption.** The 2007 Bonds may be subject to redemption prior to maturity at the option of the City, if and to the extent provided in the Certificate of Award. Any 2007 Bonds determined to be subject to optional redemption shall be redeemable on and after the date and at the redemption price set forth in the applicable Certificate of Award, which date shall be not later than ten years from the first interest payment date for the 2007 Bonds of the applicable Series and which initial redemption price shall be not greater than 102% of the principal amount of Bonds to be redeemed. The 2007 Bonds of the applicable Series maturing by their stated terms after the earliest optional redemption date shall be subject to redemption at the option of the City on or after the earliest optional redemption date in whole or in part on any date at the redemption prices provided in the Certificate of Award and in accordance with the applicable Supplemental Indenture and the Indenture. The 2007 Bonds designated in the Certificate of Award as term bonds subject to mandatory sinking fund redemption shall be redeemed prior to maturity on each mandatory redemption date designated in the Certificate of Award in the aggregate amount of the sinking fund installment to be paid on such mandatory redemption date, all as provided in the Certificate of Award and in accordance with the Supplemental Indenture.

(f) **Purchase in Lieu of Redemption.** The 2007 Bonds may be subject to purchase by the City in lieu of optional redemption if and to the extent provided in the Certificate of Award and applicable Supplemental Indenture.

(g) **Execution.** The 2007 Bonds shall be signed by the persons and in the manner set forth in the Indenture.

(h) **Numbering.** The 2007 Bonds shall be numbered as determined by the Director of Finance.

Section 6. Authorization of Supplemental Indentures; Escrow Agreement. In order to secure the payment of the principal of and any premium and interest on the 2007 Bonds, the Mayor, Director of Finance and Director of Public Util-

ities, or any two of them, are authorized to sign and deliver to the Trustee, in trust for the Original Purchasers and subsequent holders of the 2007 Bonds, one or more Supplemental Indentures, approved as to form and correctness by the Director of Law, not inconsistent with this Ordinance, the Certificate of Award and the Indenture and not substantially adverse to the City as may be approved by the officers signing the same on behalf of the City. The determination by those officers that a Supplemental Indenture is not substantially adverse to the City shall be conclusively evidenced by the signing and delivery of that Supplemental Indenture by those officers.

In order to cause the proceeds of the 2007 Bonds and any funds of the City deposited in an Escrow Fund to be invested as permitted under Section 9.02 of the Indenture so that the Refunded Bonds are deemed paid and discharged, and in order to cause the amount to be deposited to be dedicated and applied to the payment of the principal of and interest and any redemption premium on the Refunded Bonds as and when due, to and including the applicable redemption date, the Director of Finance is authorized to sign and deliver one or more Escrow Agreements between the City and the Trustee as Escrow Agent, approved as to form and correctness by the Director of Law, providing for the establishment of an Escrow Fund as a trust fund in the custody of the Trustee and the investment, dedication and application of the moneys deposited in the accounts therein and further providing for the payment of the fees and expenses of the Trustee for the performance of its duties as Escrow Agent. Each Escrow Agreement shall provide for the redemption of the applicable Refunded Bonds subject to redemption in accordance with the Certificate of Award and shall provide irrevocable instruction to the Trustee to effect such redemption in accordance with the Indenture. The Director of Finance is authorized to take such other actions as may be necessary or appropriate to accomplish the refunding of the Refunded Bonds, including without limitation, the retention of a firm of independent certified public accountants to verify that the securities to be in an Escrow Fund are of such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient, together with any cash in an Escrow Fund, for the payment of debt service on the Refunded Bonds.

Section 7. Rebate Fund. There is established and ordered to be maintained one or more separate accounts for the 2007 Bonds within the Rebate Fund held in the custody of the Trustee under the Indenture. The Rebate Fund is not pledged to the payment of debt service and is free and clear of any pledge or lien given under the Indenture as security for the 2007 Bonds or the Outstanding Revenue Bonds. Calculations of excess earnings that may be due and payable to the federal government pursuant to the Code and deposits to those accounts of the

Rebate Fund shall be made as provided in the applicable Supplemental Indenture.

Section 8. Defeasance of Outstanding Bonds. In the event that any Outstanding Revenue Bonds are to be defeased using Net Revenues of the Waterworks System for the purpose, the Defeased Bonds shall be designated by the City in the Defeasance Agreement and shall consist of Outstanding Revenue Bonds the defeasance of which will enable the City, in the judgment of the Director of Finance based on the written advice of a Financial Advisor, to improve the debt service coverage ratio of the Water System (being the ratio of Net Revenues to Annual Debt Service Requirements, as defined in the Indenture). The Director of Finance is authorized to deposit into the Defeasance Fund, from moneys transferred to the Defeasance Fund from Fund No. 52-300 of the Water Division, an amount not to exceed \$60,000,000, with the actual amount to be determined by the Director of Finance in consultation with the Director of Public Utilities. In order to cause the moneys deposited into the Defeasance Fund to be invested as required under Section 9.02 of the Indenture so that the Defeased Bonds are deemed paid and discharged, and in order to cause the amounts so deposited to be dedicated and applied solely to the payment of the principal of and interest and any redemption premium on the Defeased Bonds, as and when due at maturity or upon prior redemption, the Director of Finance is authorized to sign and deliver a Defeasance Agreement approved as to form and correctness by the Director of Law, providing for the establishment of the Defeasance Fund as a trust fund in the custody of the Trustee and the investment, dedication and application of the moneys deposited therein and further providing for the payment to the Trustee of fees and expenses for its performance of its duties under the Defeasance Agreement. The determination that the Defeasance Agreement satisfies the requirements of this Section shall be conclusively evidenced by the signing of the Defeasance Agreement by the Director of Finance. The Director of Finance is further authorized to sign and deliver agreements, approved as to form and correctness by the Director of Law, with one or more institutions, including agreements which will enable the City to more efficiently structure the Defeasance Fund and thereby maximize debt service savings and minimize negative arbitrage. The Director of Finance is authorized to take such other actions as may be necessary or appropriate to accomplish the defeasance of the Defeased Bonds, including without limitation, the retention of a firm of independent certified public accountants to verify that the securities to be deposited in the Defeasance Fund are of such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient, together with any available cash in the Defeasance Fund, for the payment of debt service on the Defeased Bonds.

Section 9. Interest Hedge Agreements. This Council finds that by

engaging in interest rate hedging arrangements with respect to Water Revenue Bonds, from time to time, in which different interest costs or receipts at, between, or among fixed or floating interest rates, including at different floating interest rates, are exchanged on stated amounts with reference to Water Revenue Bonds, the City may reduce its cost of borrowing or optimize the relative amounts of its fixed and variable rate obligations or minimize the risk of variations in its debt service costs. To permit the City to have the flexibility to undertake interest rate swaps, swap options, rate caps, rate collars and other hedging transactions with respect to Water Revenue Bonds, from time to time, and to establish the procedures for approving those transactions, this Council authorizes the signing and delivery of one or more agreements (each, a "Hedge Agreement") in anticipation of the issuance of the 2007 Bonds or subsequent to the issuance of any Outstanding Revenue Bonds and further authorizes the signing and delivery of any related agreements necessary for the consummation of the transactions contemplated by each Hedge Agreement. The authorizations in this Section 9 are supplemental to and not in derogation of any authority provided by any other ordinance of this Council concerning hedging arrangements.

Upon the determination of the Director of Finance, based on the written advice of a Financial Advisor, that it is to the financial advantage of the City and in the City's best interests that a hedging arrangement be undertaken by the City with respect to any Outstanding Revenue Bonds or any Series of 2007 Bonds, the Director of Finance may authorize one or more interest rate hedge transactions in accordance with the applicable Hedge Agreement; provided that (a) the counterparty shall be rated at the time of signing the Hedge Agreement not lower than A+ or A1 by at least one rating agency or its obligations under the Hedge Agreement shall be guaranteed or insured by an entity rated at the time of signing the Hedge Agreement not lower than A+ or A1 by at least one rating agency, and (b) the term of each hedge transaction shall not exceed the final maturity of the Bonds to which the hedge relates or (in the case of an option or forward delivery) will relate.

The Director of Finance shall negotiate the terms of each Hedge Agreement with a counterparty satisfying the credit criteria in this Ordinance. The City shall receive a written opinion of a Financial Advisor that the upfront payment or the periodic payments, as the case may be, to be made by the counterparty to the City, or by the City to the counterparty, shall be fair value for the Hedge Agreement, given the credit of the counterparty and the terms and conditions of the Hedge Agreement. The Director of Finance shall determine the terms and conditions of the Hedge Agreement, including without limitation, the time or times and procedures for the exercise by the counterparty or the

City, as the case may be, of any option under the Hedge Agreement, whether the obligations of the City under the Hedge Agreement shall be secured by a Credit Support Instrument, and the rates to be paid by the counterparty to the City and by the City to the counterparty under the Hedge Agreement. The approval of each hedge transaction by the Director of Finance shall be conclusively evidenced by the signing and delivery of the applicable Hedge Agreement by the Director of Finance.

The City's obligations under any Hedge Agreement shall be payable from the Net Revenues of the Utility (each term as defined in the Indenture) and may be secured by a pledge of the Net Revenues on a parity with the pledge given under the Indenture to secure Bonds, subject to the requirements of Article XI of the Indenture with respect to Parity Obligations. The obligation of the City to make payments under a Hedge Agreement does not and shall not represent or constitute a general obligation, debt, bonded indebtedness or a pledge of the faith and credit of the City. Nothing shall give any party to a Hedge Agreement the right to have excises, ad valorem or other taxes levied by the City or the State for the payment of any amounts due under a Hedge Agreement.

Section 10. Covenants of the City. The City, by issuance of the 2007 Bonds, covenants and agrees with the Holders of the 2007 Bonds, that:

(a) The City will use the proceeds of the 2007 Bonds to pay costs of improvements to the Waterworks System, to refinance any Refunded Bonds, to fund any required deposit to the Debt Service Reserve Fund, if and to the extent set forth in the Certificate of Award, to pay interest on the 2007 Bonds during construction of the improvements financed by the 2007 Bonds, and to pay costs relating to the issuance of the 2007 Bonds and the refunding of any Refunded Bonds.

(b) The Clerk, or other appropriate officer of the City, will furnish to the Original Purchasers and to the Trustee a true transcript of proceedings, certified by the Clerk or other officer, of all proceedings had with reference to the issuance of the 2007 Bonds, together with information from the City's records as is necessary to determine the regularity and validity of the issuance of the 2007 Bonds.

(c) The City will, at any and all times, cause to be done all such further acts and things and cause to be signed and delivered all further instruments as may be necessary to carry out the purpose of the 2007 Bonds and this Ordinance or as may be required by Section 13, Article XVIII of the Constitution of Ohio or the Charter of the City or the Indenture or the applicable Supplemental Indenture and will comply with all requirements of law applicable to the Waterworks System and the operation thereof.

(d) The City will observe and perform all its agreements and obligations provided for in the 2007 Bonds, this Ordinance, the Indenture and each Supplemental Indenture. All of the obligations under this Ordinance and the Indenture and each Supple-

mental Indenture are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01, Ohio Revised Code.

(e) The City will use, and will restrict the use and investment of, the proceeds of the 2007 Bonds in such manner and to such extent as may be necessary so that (a) the 2007 Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Code or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon will not be treated as an item of tax preference under Section 57 of the Code.

(f) The City covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the 2007 Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the 2007 Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of 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.

Each covenant made in this section with respect to the 2007 Bonds is also made with respect to all issues for which any portion of the debt service is paid from proceeds of the 2007 Bonds (and, if different, the original issue and any refunding issues in a Series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the 2007 Bonds from gross income for federal income tax purposes, and the Director of Finance, or any other officer having responsibility with respect to the 2007 Bonds, is authorized to take such actions with respect to those issues as they are authorized in this section to take with respect to the 2007 Bonds.

The Mayor, the Director of Finance or any other appropriate officer of the City is authorized (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the 2007 Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting the favorable tax treatment or status of the 2007 Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of compliance, reducing the rebate amount 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 amount or payments, as determined by that officer, (b) 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 exclusion of interest from gross income and the intended tax status of the 2007 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the 2007 Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the 2007 Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment or status of the 2007 Bonds and interest thereon.

Section 11. Authorization of Bond Rating and Credit Enhancement. If, in the judgment of the Director of Finance, the filing of applications for one or more ratings on the 2007 Bonds by one or more nationally recognized rating agencies and for Credit Support Instruments is necessary or desirable for marketing purposes, the Director of Finance is authorized to prepare and submit any or all of those applications, to provide information as may be required in support of those applications and to provide for the payment of the costs of ratings and Credit Support Instruments from proceeds of the 2007 Bonds or funds of the Water Division, which are appropriated for the purpose.

Section 12. Official Statements; Continuing Disclosure. The Director of Finance, the Director of Public Utilities, the Commissioner of Water, and other City officials as deemed appropriate, each are authorized, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, disclosure documents in the form of a preliminary official statement relating to the issuance of the 2007 Bonds of one or more Series, and (ii) determine, and certify or otherwise represent, when each preliminary official statement as so prepared is a "deemed final" official statement (except for permitted omissions) by the City as of its date for purposes of Securities and Exchange Commission ("SEC") Rule 15c2-12(b)(1). The distribution and use of one or more preliminary official statements are authorized and approved.

Those officers and each of them are also authorized, on behalf of the City and in their official capacities, to complete each preliminary official statement with such modifications, changes and supplements as those officers shall approve or authorize for the purpose of preparing and determining, and to certify or otherwise represent, that the official statement as so revised is a final official statement for purposes of SEC Rule 15c2-12(b)(3) and (4). Those officers each are further authorized to use and distribute, or authorize the use and distribution of, one or more final official statements and supplements thereto in connection with the original issuance of the 2007 Bonds as may, in

their judgment, be necessary or appropriate. Those officers each are further authorized to sign and deliver, on behalf of the City and in their official capacities, each final official statement and such certificates in connection with the accuracy of each preliminary official statement and each final official statement and any amendments thereto as may, in their judgment, also be necessary or appropriate. 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 2007 Bonds, the City agrees, in accordance with, and as an obligated person with respect to the 2007 Bonds under, SEC Rule 15c2-12, 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 SEC Rule 15c2-12. 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 and the Director of Public Utilities are authorized 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 2007 Bonds in accordance with SEC Rule 15c2-12. 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.

Section 13. Authorization of Other Documents. To provide for the issuance and sale of the 2007 Bonds and the consummation of the transactions contemplated by this Ordinance, the Indenture, each Bond Purchase Agreement, each Supplemental Indenture, each Escrow Agreement, any Defeasance Agreement and each Hedge Agreement, the Mayor, the Director of Finance and the Director of Public Utilities, or any one of them, and such other officers of the City as may be appropriate, are authorized and directed to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments as may be necessary or appropriate to issue the 2007 Bonds and to consummate those transactions.

Section 14. Lien of Pledge. The Net Revenues of the Utility (as each term is defined in the Indenture) are subject to the lien of the pledge under the Indenture without any physical delivery of the Net Revenues or further act, and the lien of such pledge is valid and binding against all parties having claims of any kind against the City (irrespective of whether such parties have notice of such pledge and create a perfected security interest for all purposes of Chapter 1309, Ohio Revised Code) without the necessity for separation of delivery of the Net Revenues or for the filing or recording of the Indenture or any

other resolution or instrument by which such pledge is created or any certificate, statement or other document with respect to such pledge. The pledge of the Net Revenues under the Indenture shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any further act of appropriation.

Section 15. Financial Advisors and Consultants. 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 or to negotiate any Hedge Agreements. The Director of Finance may rely on the written advice of any Financial Advisor so retained. The Director of Finance may obtain the services of one or more feasibility consultants, from time to time, to provide reports in connection with the issuance and sale of any 2007 Bonds or the delivery of any Hedge Agreements concerning the utilization and operation of the Utility, debt service coverage, rates and charges or other matters. Any Financial Advisor or consultant employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the underwriters or counterparties and any other party interested in the transaction.

Section 16. Appointment of Successor Trustee. The Director of Finance is authorized to appoint a successor Trustee in the event that the current Trustee, U.S. Bank, National Association, shall resign or be removed, or be dissolved or otherwise become incapable of acting as Trustee under the Indenture, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, in accordance with the provisions of the Indenture.

Section 17. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

Section 18. Findings and Recitals of Validity. The City determines, represents and recites that all acts, conditions and things necessary to be done precedent to and in the issuance of the 2007 Bonds in order to make the 2007 Bonds legal, valid and binding obligations of the City have or will have happened or have or will have been done and performed in regular and due form as required by law and the City's Charter; and that no limitation of indebtedness or taxation, either statutory or constitutional, is applicable to the 2007 Bonds or their issuance. It is further found and determined, and is represented and recited, that the provisions of the City's Charter and the rules of this Council have been fully complied with and that this Ordinance was adopted in conformity therewith.

Section 19. Severability. In case any section or provision of this Ordinance, or in case any covenant, stipulation, obligation, agreement, act or action made, assumed or taken under this Ordinance, is for any reason held to be illegal or invalid, or is at any time inoperable by reason of any law, that illegality or inoperability shall not affect any other section or provision of this Ordinance, or any other covenant, stipulation, obligation, agreement, act or action made, assumed or taken under this Ordinance. This Ordinance shall be construed and enforced as if such illegal or invalid or inoperable portion were not contained in it. Any such illegality or invalidity or inoperability shall not affect any legal and valid and operable application from time to time, and each such section, provision, covenant, stipulation, obligation, agreement, act or action shall be deemed to be effective, operative, made or taken in the manner and to the full extent from time to time permitted by law.

Section 20. Effective Date. This Ordinance is declared to be an emergency measure for the reasons set forth in the preambles. Those preambles are made a part hereof. Provided that this ordinance receives the affirmative vote of two-thirds of all members elected to this Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest date allowed by law.

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

Ord. No. 2046-06.
By Council Member Sweeney (by departmental request).

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

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the term of one or two years for the necessary items of keys, locks, and hardware in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies upon a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Finance is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance,

a financial advantage shall be determined by the Director of Finance by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118770)

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 Finance, Law; Committee on Finance.

Ord. No. 2047-06.

By Council Member Sweeney (by departmental request).

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

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one or two years of the necessary items of exterminating services, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Finance is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Finance by comparing the bids received for both terms.

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

the contract or contracts certified by the Director of Finance. (RL 118770)

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 Finance, Law; Committee on Finance.

Ord. No. 2048-06.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials needed to maintain and repair overhead doors, for the various divisions of City government.

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the term of one year or two years for the necessary items of labor and materials needed to maintain and repair overhead doors in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Finance is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Finance by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118770)

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 Finance, Law; Committee on Finance.

Ord. No. 2049-06.

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

An emergency ordinance giving consent of the City of Cleveland to the County Commissioners of Cuyahoga County for the rehabilitation of Pearl Road Bridge No. 118 over Big Creek, Norfolk Southern Railroad and CSX Railroad; authorizing the Director of Public Service to enter into any relative agreements; to apply for and accept an allocation of County Motor Vehicle License Tax Funds for the improvement.

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

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

Section 1. That it is declared to be in the public interest that the consent of the City of Cleveland is given to the Board of County Commissioners (the "County") to construct the following improvement under plans, specifications, and estimates approved by the County: the rehabilitation of Pearl Road Bridge No. 118 over Big Creek, Norfolk Southern Railroad and CSX Railroad (the "Improvement").

Section 2. That the City proposes to cooperate with the County in the cost of the Improvement to the extent of funds received by an allocation from the County Motor Vehicle \$5.00 License Tax Fund; and by applying to the Board of County Commissioners to use the License Tax Fund for the Improvement. However, the City agrees to assume and contribute 100% of the cost of any items included in the construction contract, at the request of the City, which are determined by the County not eligible or made necessary by the Improvement.

Section 3. That the Director of Public Service is authorized to enter into one or more agreements with the County necessary to complete the planning and construction of the Improvement, which agreements shall contain terms and conditions that the Director of Law determines shall best protect the public interest.

Section 4. That on completion of the Improvement, the City will:

(a) Keep the affected highway open to traffic at all times;

(b) Maintain the Improvement according to the provisions of the statutes relating thereto and make ample financial and other provisions for the maintenance;

(c) Maintain the right-of-way and keep it free of obstruction in a manner satisfactory to the County and hold the right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands, or other private installations within the limits of the right-of-way;

(d) Place and maintain all traffic control devices under the Ohio Manual of Uniform Traffic Control Devices under the provisions of Section 4511.11 and related sections of the Revised Code;

(e) Follow and maintain post-construction Best Management Practices as outlined in the Municipal Storm Water Permit that is filed with the Ohio Environmental Protection Agency; and

(f) Prohibit all parking within the limits of the roadway which is a part of the Improvement under Section 4511.66 of the Revised Code, unless otherwise controlled by City ordinance or resolution.

Section 5. (a) That all existing streets and public rights-of-way within the City that are necessary for the Improvement shall be made available.

(b) That in the event any additional right-of-way is required for the Improvement the County will arrange for its acquisition.

(c) That the County shall continue to maintain the structural elements of any bridge (defined as a structure with a span of twenty (20) feet or greater) within the limits of the Improvement under applicable sections of the Revised Code.

(d) That the street within the limits of the Improvement is designated a through highway within the meaning of division (F) of Section 4511.07 of the Revised Code.

(e) That arrangements have been or will be made with and agreements obtained from all utility companies whose lines or structures will be affected by the Improvement. That the companies have agreed to make any and all necessary rearrangements in such manner as to be clear of any construction called for by the plans for the Improvement. That the companies have agreed to make necessary rearrangements immediately after notification by the City.

(f) That the City, at its own expense, shall make all rearrangements of water mains, service lines, fire hydrants, valve boxes, sanitary sewers, or other City-owned utilities and appurtenances which do not comply with the provisions of ODOT Directive No. 28-A, whether inside or outside the corporate limits of the City, as may be necessary to conform to the Improvement.

(g) That the County will participate in the costs of alterations of governmentally-owned utility facilities which come within the provisions of ODOT Directive No. 28-A to the same extent that it participates in the other costs of the Improvement, provided that such participation will not extend to additions or betterments of existing facilities.

(h) That the construction, reconstruction, and rearrangement of all utilities shall be done in a manner as not to interfere unduly with the operations of the contractor or contractors constructing the Improvement, and all backfilling of trenches made necessary by utility rearrangement shall be performed under the provisions of the ODOT Construction and Material Specifications.

(i) If applicable, that stop signs affecting the movement of traffic on any street within the limits of the Improvement shall be removed and no stop signs will be erected except at intersections with another through highway where traffic does not warrant the installation of a

traffic control signal but where the warrants for a "Four-Way Stop" as provided in the aforesaid manual are met.

(j) That no rule or regulation may be enacted restricting the use of the Improvement by any class of vehicle or vehicle load permitted by the Revised code to use a public highway. Any existing rule or regulation so restricting road usage is rescinded.

Section 6. That this Council requests the County to proceed with the Improvement.

Section 7. That the Director of Public Service is authorized to enter into an agreement with the County concerning the financing of the Improvement, which agreement shall contain without limitation terms substantially similar to the following:

(a) That the County will arrange for the preparation of construction plans and specifications for the Improvement, including necessary engineering reports, under current Cuyahoga County standards for construction of County roads and bridges.

(b) That the County will arrange for the supervision and administration of the construction contract for the Improvement, and will review the construction plans for conformance with division (a) of this section, and make an inspection of the completed project.

(c) That if, by ordinance of this Council, the City requests the County, to include in the Improvement the construction of sanitary sewers, water lines, sewers for drainage of the area surrounding the Improvement, sidewalks, alternate bid items or other items that are in addition to those now existing in the plans for the Improvement and not provided for elsewhere in the agreement, the County will do so, provided that the construction of the additional items are approved by the County and the City, and provided further that the City agrees to pay or cause to be paid the cost of the additional construction and of preliminary and design engineering, but the City shall not be responsible for the cost of supervision of the additional construction.

(d) That the City agrees to participate with the County in the cost of the Improvement by an allocation from the County Motor Vehicle License Tax Fund to pay the County portion of the Improvement.

(e) That if the Improvement is financed as a Federal-aid project, eligible costs of the Improvement shall be financed from the funds.

Section 8. That the Director of Public Service is authorized to apply to the County for an allocation from the County Motor Vehicle License Tax Fund to pay the County portion of the Improvement, and to enter into one or more agreements with the County as are necessary to finance the Improvement.

Section 9. That the Clerk of Council is authorized and directed to transmit to the County three (3) certified copies of this ordinance immediately on its taking effect, and it shall become the basis for proceeding with the Improvement.

Section 10. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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

Ord. No. 2050-06.

By Council Members Zone and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more contracts with Cognos Corporation to acquire one or more software licenses and software license maintenance necessary for operation of Cognos' Financial Information System, including server licenses and other as-needed software licenses, and professional services for as-needed consulting and support services, including but not limited to training and knowledge transfer, necessary to augment, support, and further enhance the system.

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 enter into one or more contracts with Cognos Corporation to acquire one or more software licenses and software license maintenance necessary for operation of Cognos' Financial Information System software currently in use by the Division of Water, including server licenses for a development/test dual processor server and other as-needed software licenses, and professional services for as-needed consulting and support services, including but not limited to training and knowledge transfer services, necessary to augment, support, and further enhance the system on the basis of its proposal dated November 8, 2006, in the total aggregate sum of \$70,000, for the Department of Public Utilities. The contract or contracts shall be paid from Fund No. 52 SF 001, Request No. 176718.

Section 2. That the Director of Public Utilities is authorized to enter into any third-party software license agreements necessary to effectuate the purposes of this ordinance.

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

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

Ord. No. 2051-06.
By Council Members Pierce Scott and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials necessary to extend the Citywide VOIP communication system, including but not limited to equipment, cables, cabling, installation, and training, necessary to relocate the Downtown One Stop Career Center to 1020 Bolivar, for the Department of Economic Development.

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

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

Section 1. That the Director of Economic Development is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a one year period of the necessary items of labor and materials necessary to extend the Citywide VOIP communication system, including but not limited to equipment, cables, cabling, installation, and training, necessary to relocate the Downtown One Stop Career Center to 1020 Bolivar, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Economic Development. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 148554)

Section 3. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Economic Development may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

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

Referred to Directors of Economic Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2052-06.
By Council Members Pierce Scott and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to apply for and accept a grant from LNE & Associates, LLC for the PROES - Building HOPE Program.

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

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

Section 1. That the Director of Economic Development is authorized to apply for and accept a grant in the amount of \$54,439.00, from LNE & Associates, LLC to conduct the PROES - Building HOPE 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 pre-award agreement for the grant contained in the file described below.

Section 2. That the pre-award agreement for the grant, File No. 2052-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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 Economic Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2053-06.
By Council Member Cimperman.

An emergency ordinance authorizing the Director of Community Development to enter into a development agreement with The K & D Group or its designee, for the redevelopment of 2019 Center Street into residential units, office space, retail space, parking and streetscape.

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

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

Section 1. That, notwithstanding and as an exception to the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Community Development is authorized to enter into a development agreement with The K & D Group, or its designee, for the redevelopment of 2019 Center Street into residential units, office space, retail space, structured parking spaces and streetscape.

Section 2. That the terms of the development agreement, as presented to the Finance Committee of this Council at the public hearing on this legislation contained in File No. 2053-06-A, are made a part of this ordinance as if fully rewritten herein, may not be changed without additional legislative authority, and are approved in all respects.

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.

Referred to Directors of Community Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2054-06.
By Council Member Pierce Scott.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on scattered sites to Greater Cleveland Habitat for Humanity.

Whereas, the City of Cleveland adopted and implemented procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed of by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 105-30-021 as more fully described below, to Greater Cleveland Habitat for Humanity.

Section 2. That the real property to be sold pursuant to Section 1 of this Ordinance is more fully described as follows:

P. P. No. 105-30-021

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being parts of Sublot Nos. 1, 2, 3, and 4 in John T. Avery's Re-Subdivision of Sublots "A" 1, 2, 3, 4 and 5, of John T. Avery's Subdivision of part of Original One Hundred Acre Lots Nos. 348 and 350 as shown by the recorded plat of said Re-Subdivision in Volume 17 of Maps, Page 26 of Cuyahoga County Records and together forming a parcel of land bounded and described as follows:

Beginning in the Westerly line of East 79th Street at the Northeastly corner of a parcel of land con-

veyed to Margaret Cowin, by Warranty Deed dated June 11, 1903 and recorded in Volume 887, Page 530 of Cuyahoga County Records; thence Northerly along the Westerly line of East 79th Street, 35 feet to a point; thence Westerly on a line parallel with the Southerly line of Sublot No. 4, 130 feet to the Westerly line of Sublot No. 1; thence Southerly along the Westerly line of Sublot No. 1, and its Southerly Extension 35 feet to the Northwesterly corner of land conveyed to Margaret Cowin, as aforesaid; thence Easterly along the Northerly line of said land conveyed to Margaret Cowin, 130 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Section 3. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 105-30-044 as more fully described below to Greater Cleveland Habitat for Humanity.

Section 4. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 105-30-044

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 26 in the J.T. Avery's Subdivision of part of Original One Hundred Acre Lots Nos. 348 and 350, as shown by the recorded plat in Volume 17 of Maps, Page 26 of Cuyahoga County Records, and being 35 feet front on the Westerly side of East 79th Street (formerly Woolsey Street) and extending back of equal width 130 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to Restrictions records in Volume 541, Page 176 of Cuyahoga County Records.

Subject to Restrictions records in Volume 657, Page 438 of Cuyahoga County Records.

Subject to zoning ordinances, if any.

Section 5. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 105-30-156 as more fully described below, to Greater Cleveland Habitat for Humanity.

Section 6. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 105-30-156

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and bound and described as follows: And known as being Sublot No. 8 in W. M Gobeille's Re-Subdivision of Sublot Nos. 44 and 51 inclusive in Glenn, Hodge and Taylor's Allotment of part of Original One Hundred Acre Lot No. 348, as shown by the recorded plat of said Re-Subdivision in Volume 13 of Maps, Page 28 of Cuyahoga County Records. Said Sublot No 8 has a frontage of 34 feet on the Easterly side of East 74th Street (formerly Hodge Avenue), and extends back between parallel lines 175 feet as

appears by said plat, be the same more or less, but subject to all legal highways.

Section 7. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 105-30-159 as more fully described, to Greater Cleveland Habitat for Humanity.

Section 8. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 105-30-159

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 5 in W.M. Gobeille's Subdivision of part of Original One Hundred Acre Lot No. 348, as shown by the recorded plat in Volume 13 of Maps, Page 28 of Cuyahoga County Records and being 34 feet front on the Easterly side of East 74th Street and extending back of equal width, 175 feet deep, be the same more or less, but subject to all legal highways.

Section 9. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-02-027 as more fully described below, to Greater Cleveland Habitat for Humanity.

Section 10. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-02-027

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 39 in W.H. Lawrence's Subdivision of part of Original One Hundred Acre Lot Nos. 367 and 375, as shown by the recorded plat in Volume 15 of Maps, Page 2 of Cuyahoga County Records, and being 40 feet front on the Easterly side of Maude Avenue and extending back between parallel lines 110 feet deep, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 11. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-02-065 as more fully described below, to Greater Cleveland Habitat for Humanity.

Section 12. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-02-065

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 139 in W.H. Lawrence's Allotment of part of Original One Hundred Acre Lot Nos. 367 and 375, as shown by the recorded plat in Volume 15 of Maps, Page 2 of Cuyahoga County Records, and being 40 feet front on the Westerly side of Ansel Road, N.E., and extending back between parallel lines 110 feet, as

appears by said plat, be the same more or less, but subject to all legal highways.

Section 13. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-02-071 as more fully described below, to Greater Cleveland Habitat for Humanity.

Section 14. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-02-071

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 133 in W.H. Lawrence's Allotment of part of Original One Hundred Acre Lots Nos. 367 and 375, as shown by the recorded plat in Volume 15 of Maps, Page 2 of Cuyahoga County Records, said Sublot No. 133 has a frontage of 40 feet on the Southwesterly side of Ansel Road, N.E., (formerly Ansel Avenue) and extends back between lines 110 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to all zoning ordinances, if any.

Section 15. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 16. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 17. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 18. 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.

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

Ord. No. 2055-06.**By Council Member White.**

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Gaylord Avenue to Union Miles Development Corporation.

Whereas, the City of Cleveland adopted and implemented procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed of by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 136-13-069 as more fully described below, to Union Miles Development Corporation.

Section 2. That the real property to be sold pursuant to Section 1 of this Ordinance is more fully described as follows:

P. P. No. 136-13-069

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 8 in Lucy M. Gaylord's Subdivision of part of Original 100 Acre Lot No. 465, as shown by the recorded plat in Volume 3 of Maps, Page 48 of Cuyahoga County Records, and being 64 feet front on the Northerly side of Gaylord Avenue, S.E., (formerly Spring Street) and extending back of equal width 160 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 3. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 136-13-078 as more fully described below to Union Miles Development Corporation.

Section 4. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 136-13-078

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and bounded and described as follows to wit: and known as being the Westerly 32 feet of Sublot No. 26 in Lucy M. Gaylord Subdivision of part of Original 100 Acre Lot No. 465 as shown by the recorded plat in Volume 3 of Maps, Page 48 of Cuyahoga County Records and being 32 feet front on the Souther-

ly side of Gaylord Avenue and extending back of equal width 177 feet as appears by said plat, be the same more or less, together with all the hereditament and appurtenances thereof, but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 5. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 136-13-081 as more fully described below, to Union Miles Development Corporation.

Section 6. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 136-13-081

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Easterly 50 feet of Sublot No. 24 in Lucy M. Gaylord Subdivision of part of Original One Hundred Acre Lot No. 465 as shown by the recorded plat in Volume 3 of Maps, Page 48 of Cuyahoga County Records and being 50 feet front on the Southerly side of Gaylord Avenue and extending back of equal width 177 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 7. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 136-15-013 as more fully described, to Union Miles Development Corporation.

Section 8. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 136-15-013

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublot No. 24 in E. F. Collins' Subdivision of part of Original One Hundred Acre Lots Nos. 465, 466, as shown by the recorded plat of said Subdivision in Volume 8 of Maps, Page 13 of Cuyahoga County Records, bounded and described as follows:

Beginning in the Northerly line of Gaylord Avenue, S.E. (formerly Spring Street) at a point distant 16 feet Easterly, measured along said Northerly line, from the Southwesterly corner of said Sublot No. 24; thence Northerly parallel with the Westerly line of said Sublot No. 24, 145 feet to the Northerly line thereof; thence Easterly along said Northerly line of Sublot No. 24, about 4 feet to the Westerly right of way line of The Wheeling and Lake Erie Railway Company; thence Southerly along said Westerly right of way line, to the Northerly line of Gaylord Avenue, S.E. thence Westerly, along said Northerly line of Gaylord Avenue, about 34 feet to the place of beginning, as appears by said plat, be the same more or less but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 9. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 136-15-014 as more fully described below, to Union Miles Development Corporation.

Section 10. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 136-15-014

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Easterly 19 feet front to rear of Sublot No. 25 and the Westerly 8 feet front to rear of Sublot No. 24 in E.F. Collin's Subdivision of part of Original One Hundred Acre Lot Nos. 465 and 466, as shown by the recorded plat in Volume 8 of Maps, Page 13 of Cuyahoga County Records, and together forming a parcel of land 27 feet front on the Northerly side of Spring Street (now known as Gaylord Avenue) and extending back of equal width 145 feet deep, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 11. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 12. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 13. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 14. 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.

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

**FIRST READING EMERGENCY
ORDINANCE READ IN FULL
AND TO BE PASSED**

Ord. No. 1761-A-06 (As a substitute for Ord. No. 1761-06).

By Council Members Kelley and Sweeney.

An emergency ordinance authorizing the Director of Port Control to limit the number of taxi cabs at Cleveland Hopkins International Airport by one of the following options: 1) issue permits for a fee to taxi cab companies to operate outbound services from the airport; or 2) enter into an agreement with a third-party taxi management concessionaire to manage outbound services and issue permits at the airport; or 3) enter into a concession agreement for the operation of an exclusive outbound taxicab concession at the Airport; and authorizing one or more contracts with one or more advertising firms for marketing and promotional services.

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

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

Section 1. That, notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Port Control ("Director") is authorized to limit the number of taxi cabs at Cleveland Hopkins International Airport ("Airport") by one of the following options: 1) issue permits for a fee to taxi cab companies to operate outbound services from the airport; or 2) enter into an agreement with a third-party taxi management concessionaire to manage outbound services and issue permits at the airport; or 3) enter into a concession agreement for the operation of an exclusive outbound taxicab concession at the Airport.

Section 2. The Director is authorized as an option to issue permits for a fee to taxi cab companies to operate outbound services from the Airport. These permits are required in addition to any requirements in Chapter 443 of the Codified Ordinances of Cleveland, Ohio 1976. The Director is authorized to promulgate rules and regulations governing the issuance of the permits, including the number of permits to be issued. The fee for this permit shall be set by the Board of Control.

Section 3. The Director is authorized as an option to enter into an agreement with a third-party taxi management concessionaire to manage outbound services and issue permits at the Airport. The fee for these permits shall be set by the Board of Control. The cost for such services shall be paid for from fund numbers 60-001, 60-0104, 60-0105, and/or 60-0106. The agreement shall be for a period not to exceed five years, with one option to renew for a period up to five years, exercisable by the Director after legislative approval of Council. The agreement shall be prepared by the Director of Law and approved by the Director, and certified by the Director of Finance.

Section 4. That the Director is authorized as an option to employ by a concession agreement or agreements a taxi company in

order to provide services necessary to operate an exclusive outbound taxicab concession at the Airport. The selection of services shall be made by the Board of Control upon the nomination of the Director from a list of qualified providers available for such employment as may be determined after a full and complete canvass by the Director for the purpose of compiling such a list. The compensation to be paid for such services shall be fixed by the Board of Control. The agreement shall be for a period not to exceed five years, with one option to renew for a period up to five years, exercisable by the Director after legislative approval of Council. The agreement shall be prepared by the Director of Law and approved by the Director.

Section 5. That the Director is authorized to enter into one or more agreements with one or more advertising firms for marketing and promotional services for, but not limited to, the advertising to be placed on taxi vehicles operating under an Advertising Agreement. The Advertising Agreement shall provide that all revenues from the marketing, promotion, or advertising shall be paid directly to the City.

Section 6. That the Director is authorized to establish Airport fare rates for taxi vehicles for the purpose of transporting passengers from the Airport to another location. Any agreements authorized by this ordinance shall comply with the City of Cleveland's MBE/FBE requirements and all relevant Federal laws, rules, and requirements, including DBE requirements.

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

Without objection substitute Ordinance agreed to. Ordinance No. 1761-06 laid on the table pursuant to the Rules of Council.

Motion to suspend the rules, Charter and statutory provisions and place Ordinance No. 1761-A-06 on final passage. Yeas 18. Nays 2.

Those voting yea were: Council Members Sweeney, Brady, Brancatelli, Cimperman, Cleveland, Coats, Conwell, Cummins, Johnson, Kelley, Lewis, Pierce Scott, Polensek, Santiago, Turner, Westbrook, White and Zone.

Those voting nay were: Council Members Dolan and Reed.

Absent: Council Member Britt.

Ordinance No. 1761-A-06 read second time.

Motion to delete "or agreements" from Section 4, line 2.

Without objection amendment agreed to. Seconded and passed. Ordinance No. 1761-A-06 read third time, in full, as amended. Passed. Yeas 12. Nays 8.

Those voting yea were: Council Members Sweeney, Brancatelli, Cleveland, Coats, Conwell, Johnson, Kelley, Lewis, Pierce Scott, Santiago, Turner and White.

Those voting nay were: Council Members Brady, Cimperman, Cummins, Dolan, Polensek, Reed, Westbrook and Zone.

Absent: Council Member Britt.

Pursuant to Charter Section 36 and Rule 40 of the Rules of Council, emergency ordinances must pass by a two-thirds vote of the members of Council; if an emergency ordinance does not receive a two-thirds affirmative vote of all members of Council, the ordinance shall cease to be before the Council as an emergency measure and shall have the standing that a measure would have had if it had not been read as an emergency measure.

**FIRST READING ORDINANCE
READ IN FULL AND PASSED**

Ord. No. 1761-A-06 (As a substitute for Ord. No. 1761-06).

By Council Members Kelley and Sweeney.

An ordinance authorizing the Director of Port Control to limit the number of taxi cabs at Cleveland Hopkins International Airport by one of the following options: 1) issue permits for a fee to taxi cab companies to operate outbound services from the airport; or 2) enter into an agreement with a third-party taxi management concessionaire to manage outbound services and issue permits at the airport; or 3) enter into a concession agreement for the operation of an exclusive outbound taxicab concession at the Airport; and authorizing one or more contracts with one or more advertising firms for marketing and promotional services.

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

Section 1. That, notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Port Control ("Director") is authorized to limit the number of taxi cabs at Cleveland Hopkins International Airport ("Airport") by one of the following options: 1) issue permits for a fee to taxi cab companies to operate outbound services from the airport; or 2) enter into an agreement with a third-party taxi management concessionaire to manage outbound services and issue permits at the airport; or 3) enter into a concession agreement for the operation of an exclusive outbound taxicab concession at the Airport.

Section 2. The Director is authorized as an option to issue permits for a fee to taxi cab companies to operate outbound services from the Airport. These permits are required in addition to any requirements in Chapter 443 of the Codified Ordinances of Cleveland, Ohio 1976. The Director is authorized to promulgate rules and regulations governing the issuance of the permits, including the number of permits to be issued. The fee for this permit shall be set by the Board of Control.

Section 3. The Director is authorized as an option to enter into an agreement with a third-party taxi management concessionaire to manage outbound services and issue permits at the Airport. The fee for these permits shall be set by the Board of Control. The cost for such

services shall be paid for from fund numbers 60-001, 60-0104, 60-0105, and/or 60-0106. The agreement shall be for a period not to exceed five years, with one option to renew for a period up to five years, exercisable by the Director after legislative approval of Council. The agreement shall be prepared by the Director of Law and approved by the Director, and certified by the Director of Finance.

Section 4. That the Director is authorized as an option to employ by a concession agreement a taxi company in order to provide services necessary to operate an exclusive outboard taxicab concession at the Airport. The selection of services shall be made by the Board of Control upon the nomination of the Director from a list of qualified providers available for such employment as may be determined after a full and complete canvass by the Director for the purpose of compiling such a list. The compensation to be paid for such services shall be fixed by the Board of Control. The agreement shall be for a period not to exceed five years, with one option to renew for a period up to five years, exercisable by the Director after legislative approval of Council. The agreement shall be prepared by the Director of Law and approved by the Director.

Section 5. That the Director is authorized to enter into one or more agreements with one or more advertising firms for marketing and promotional services for, but not limited to, the advertising to be placed on taxi vehicles operating under an Advertising Agreement. The Advertising Agreement shall provide that all revenues from the marketing, promotion, or advertising shall be paid directly to the City.

Section 6. That the Director is authorized to establish Airport fare rates for taxi vehicles for the purpose of transporting passengers from the Airport to another location. Any agreements authorized by this ordinance shall comply with the City of Cleveland's MBE/FBE requirements and all relevant Federal laws, rules, and requirements, including DBE requirements.

Section 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

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

Ord. No. 2059-06.

By Council Member Sweeney.

An emergency ordinance authorizing the Clerk of Council to enter into contract with Iron Mountain National Underground Storage for professional records and information management services.

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

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

Section 1. That the Clerk of Council is hereby authorized to enter into contract with Iron Mountain National Underground Storage for profes-

sional records and information management services, including document storage, document inventory and document relocation, on the basis of their proposal dated November 28, 2006.

Section 2. That the term of this agreement begins as of October 1, 2006 and expires on September 30, 2007, with the option to renew for four additional one (1) year terms, exercisable by the Clerk of Council. The cost of the initial term of the contract shall not exceed \$54,000 and shall be paid from Fund No. 01 SF 001.

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 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

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

Res. No. 2056-06.

By Council Member Cimperman.

An emergency resolution withdrawing objection to the transfer of Liquor License of a D5 and D6 Liquor Permit at 2123 East 2nd Street, and repealing Resolution No. 1770-06, objecting to said transfer.

Whereas, this Council objected to a D5 and D6 Liquor Permit to 2123 East 2nd Street by Resolution No. 1770-06 adopted by the Council on October 23, 2006; and

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

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

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

Section 1. That objection to a D5 and D6 Liquor Permit to Richard Giamori, DBA Tavern on 2nd Street, 2123 East 2nd Street, Cleveland, Ohio 44115, Permanent Number 3163030 be and the same is hereby withdrawn and Resolution No. 1770-06, 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.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

Res. No. 2057-06.

By Council Member Cleveland.

An emergency resolution objecting to a New C2 Liquor Permit at 3230 East 93rd Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for a New C2 Liquor Permit at Semaan Marketing, Inc., 3230 East 93rd Street, Cleveland, Ohio 44104, Permanent Number 7974550; 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 a New C2 Liquor Permit at Semaan Marketing, Inc., 3230 East 93rd Street, Cleveland, Ohio 44104, Permanent Number 7974550; 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.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

Res. No. 2058-06.

By Council Member Turner.

An emergency resolution objecting to a New C1 Liquor Permit at 4344 Lee Road.

Whereas, Council has been notified by the Department of Liquor Control of an application for a New C1 Liquor Permit at Mamas Lee Road Beverage, Inc., 4344 Lee Road, Cleveland, Ohio 44128, Permanent Number 5467713; 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 a New C1 Liquor Permit at Mamas Lee Road Beverage, Inc., 4344 Lee Road, Cleveland, Ohio 44128, Permanent Number 5467713; 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.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

SECOND READING EMERGENCY ORDINANCES PASSED

Ord. No. 1461-06.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 70th Street, Zoeter and Lawnview Avenues to New Mount Zion Baptist Church.

Approved by Directors of Community Development, City Planning Commission, Finance, Law; Passage recommended by Committees on City Planning, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1733-06.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 84th Street to Lillian Roberts.

Approved by Directors of Community Development, City Planning Commission, Finance, Law; Passage recommended by Committees on City Planning, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1847-06.

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

An emergency ordinance authorizing the Director of Port Control to enter into a Lease Agreement with Circadian Knight Corp. d/b/a Top Gun for the lease of office space at Burke Lakefront Airport for flight training and related services, for the Department of Port Control, for a period of two years, with one option to renew for an additional two-year period.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1848-06.

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

An emergency ordinance authorizing the Director of Port Control to enter into a license agreement with

Norfolk Southern Railway Company to install, construct, operate, maintain, and remove a sewer line on Norfolk Southern property located at Milepost CD-192.23.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1849-06.

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

An emergency ordinance authorizing the Director of Port Control to enter into one or more agreements with local, state, and federal agencies and non-profit organizations for the exchange of, or acceptance of, services, mutually beneficial promotions, and public service announcements for the purpose of promoting Cleveland Hopkins International Airport and Burke Lakefront Airport and special events to be held at either or both airports.

Approved by Directors of Port Control, Finance, Law; Passage recommended by Committees on Aviation and Transportation, Finance; when amended as follows:

1. In the title, strike lines 5, 6, 7, 8, 9, 10 in their entirety and insert the following: "**for the use of airport space for promotional use and to accept in-kind services, promotions, or comparable space promoting Cleveland Hopkins International Airport and Burke Lakefront Airport and special events to be held at either or both airports for a period of two years.**".

2. In Section 1, strike lines 3, 4, 5, and 6 in their entirety and insert: "**for the use of airport space to promote and highlight the civic and cultural contributions to the Greater Cleveland Area by local nonprofit organizations, for a period of two years.**".

3. In Section 2, lines 1 and 2, strike "gifts of services, mutually beneficial promotions, and public service announcements from local," and insert "**in-kind services, promotions, or comparable advertisement space with local**"; and strike lines 5, 6, and 7 in their entirety and insert "**events to be held at either or both airports. The Board of Control shall determine that the extent of the use of space and the services and promotions offered in exchange are of comparable value.**".

4. Strike Section 3 in its entirety, and renumber existing Sections 4 and 5 to new "**Section 3**" and "**Section 4**".

Amendments agreed to.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. 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. 1852-06.

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

An emergency ordinance authorizing the Director of Port Control to

lease to the International Women's Air and Space Museum, Inc. certain space at Burke Lakefront Airport, for a term not to exceed seven years.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1877-06.

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

An emergency ordinance authorizing the Director of Public Safety to enter into one or more contracts without competitive bidding with Medtronic Physio-Control for the purchase of maintenance of LifePak 12 defibrillators and LifePak 500 automatic external defibrillators, for the Division of Emergency Medical Service, Department of Public Safety.

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

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1884-06.

By Council Members Pierce Scott and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into one or more contracts with various non-profit agencies for the implementation of homeless assistance activities; and to enter into one or more contracts with Cuyahoga County for the operation of the Cleveland/Cuyahoga County Office of Homeless Services.

Approved by Directors of Community Development, Finance, Law; Passage recommended by Committees on Community and Economic Development, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1892-06.

By Council Members Pierce Scott and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a grant agreement with The Greater Cleveland Sports Commission to provide financial assistance to organize and administer programs for marketing the City of Cleveland as a venue for sporting events.

Approved by Directors of Economic Development, Finance, Law; Passage recommended by Committees on Community and Economic Development, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1952-06

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Cleveland Municipal Court, to enter into one or more contracts with Court Community Service for professional services necessary to place criminal defendants in community service, and for placement in the Cleveland Work Crew Program, both as referred by the Court, each for a period of one year, with a one year option to renew, for the Cleveland Municipal Court.

Approved by Directors of Finance, Law; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

LAID ON THE TABLE

Ord. No. 1074-05.

By Council Member Reed.

An emergency ordinance to amend Section 185.41 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 794-03, passed June 10, 2003, relating to terms of payment.

Ord. No. 1239-06.

By Council Members Reed, Turner, Cleveland, Santiago, Coats, Conwell, Polensek, Johnson, Cimperman, Brady and Dolan.

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 171.03 relating to City of Cleveland mentoring program.

Without objection, Ordinance No. 1074-05 and Ordinance No. 1239-06, were relieved of further consideration of all committees and laid on the table pursuant to the Rules of Council.

The rules were suspended. Yeas 20. Nays 0. Ordinance No. 1074-05 and Ordinance No. 1239-06, laid on the table.

MOTION

By Council Member Zone, seconded by Council Member Santiago, and unanimously carried that the absence of Council Member Patricia J. Britt, be and is hereby authorized.

MOTION

The Council Meeting adjourned at 9:00 p.m. to meet Monday, December 11, 2006 at 7:00 p.m. in the Council Chambers.



City Clerk, Clerk of Council

THE CALENDAR

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

NONE

2236

BOARD OF CONTROL

November 29, 2006

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, November 29, 2006, at 10:30 a.m. with Mayor Jackson presiding.

Present: Mayor Jackson, Directors Triozzi, Dumas, Ciaccia, Acting Director Szabo, Director Wasik, Acting Director Bialosky, Directors Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Absent: None.

Others: Jim Hardy, Commissioner, Purchases and Supplies.

Debra Linn Talley, Director, Office of Equal Opportunity.

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

Resolution No. 546-06.

By Director Ciaccia.

Whereas, under Section 129.25 of the Codified Ordinances of Cleveland, Ohio, 1976, and Board of Control Resolution No. 284-06, adopted on July 12, 2006, and Resolution No. 719-04, adopted on December 22, 2004, the City of Cleveland entered into City Contracts Nos. 65941 and 63867 with Hughes Supply, Inc. respectively for an estimated quantity of ductile iron pipe and fittings and service fittings for the Division of Water, Department of Public Utilities; and

Whereas, by letter dated October 27, 2006, HD Supply Waterworks, Ltd. notified the City of the integration of National Waterworks and Hughes Supply Water & Sewer into HD Supply Waterworks, Ltd.; and

Whereas, HD Supply Waterworks, Ltd. proposes to undertake all obligations of Hughes Supply, Inc. under City Contracts Nos. 65941 and 63867; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland, that this Board authorizes the Director of Public Utilities to consent to the assignment of City Contracts Nos. 65941 and 63867 from Hughes Supply, Inc. to HD Supply Waterworks, Ltd.

Be it further resolved that the Director of Public Utilities is authorized to execute all documents and do all things necessary to implement the consent to the assignment of City Contract Nos. 65941 and 63867 authorized above. A copy of the consent to assignment and the assignment of Contract Nos. 65941 and 63867 shall be filed with the original of each contract in the custody of the Commissioner of Accounts.

Yeas: Mayor Jackson, Directors Triozzi, Dumas, Ciaccia, Acting Director Szabo, Director Wasik, Acting Director Bialosky, Directors Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: None.

Resolution No. 547-06.

By Director Ciaccia.

Whereas, under Section 129.25 of the Codified Ordinances of Cleveland, Ohio, 1976, and Board of Control Resolution No. 398-06, adopted

on August 30, 2006, Resolution No. 9-06, adopted on January 11, 2006, Resolution No. 458-05, adopted on August 31, 2005, and Resolution No. 717-04, adopted on December 22, 2004, the City of Cleveland entered into City Contracts Nos. 66115, 65347, 64799 and 63871 with National Waterworks respectively for an estimated quantity of water meter parts, valves and appurtenances, fire-hydrants and hydrant parts and service fittings for the Division of Water, Department of Public Utilities; and

Whereas, letter dated October 27, 2006, HD Supply Waterworks, Ltd. notified the City of the integration of National Waterworks and Hughes Supply Water & Sewer into HD Supply Waterworks, Ltd.; and

Whereas, HD Supply Waterworks, Ltd. proposes to undertake all obligations of National Waterworks under City Contracts Nos. 66115, 65347, 64799 and 63871; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland, that this Board authorizes the Director of Public Utilities to consent to the assignment of City Contract Nos. 66115, 65347, 64799 and 63871 from National Waterworks to HD Supply Waterworks, Ltd.

Be it further resolved that the Director of Public Utilities is authorized to execute all documents and do all things necessary to implement the consent to the assignment of City Contract Nos. 66115, 65347, 64799 and 63871 authorized above. A copy of the consent to assignment and the assignment of Contract Nos. 66115, 65347, 64799 and 63871 shall be filed with the original of each contract in the custody of the Commissioner of Accounts.

Yeas: Mayor Jackson, Directors Triozzi, Dumas, Ciaccia, Acting Director Szabo, Director Wasik, Acting Director Bialosky, Directors Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.
Absent: None.

Resolution No. 548-06.

By Director Ciaccia.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Terrace Construction Co. for the public improvement of Westdale Avenue Sewer Replacement Project, (Base Bid All Items including the 10% contingency allowance) for the Division of Water Pollution Control, Department of Public Utilities, received on September 29, 2006, under the authority of Ordinance No. 872-06, passed July 12, 2006, upon a unit basis for the improvement, in the aggregate amount of \$220,477.95 is affirmed and approved as the lowest responsible bid; and the Director of Public Utilities is authorized to enter into contract for the improvement with the bidder.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Terrace Construction Co. for the above-mentioned public improvement is approved:

**SUBCONTRACTOR WORK
MBE/FBE**

The Vallejo Co.
MBE \$33,075.00
(15.00%)

Rockport Construction
FBE \$11,025.00
(5.00%)

Yeas: Mayor Jackson, Directors Triozzi, Dumas, Ciaccia, Acting Director Szabo, Director Wasik, Acting Director Bialosky, Directors Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.
Absent: None.

Resolution No. 549-06.

By Director Ciaccia.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Terrace Construction Co. for the public improvement of East 128th Street Sewer Replacement Project, (Base Bid All Items including the 10% contingency allowance) for the Division of Water Pollution Control, Department of Public Utilities, received on September 29, 2006, under the authority of Ordinance No. 876-06, passed July 12, 2006, upon a unit basis for the improvement, in the aggregate amount of \$138,263.13 is affirmed and approved as the lowest responsible bid; and the Director of Public Utilities is authorized to enter into contract for the improvement with the bidder.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Terrace Construction Co. for the above-mentioned public improvement is approved:

**SUBCONTRACTOR WORK
MBE/FBE**

The Vallejo Co.
MBE \$20,750.00
(15.01%)

Rockport Construction
FBE \$ 6,925.00
(5.01%)

Yeas: Mayor Jackson, Directors Triozzi, Dumas, Ciaccia, Acting Director Szabo, Director Wasik, Acting Director Bialosky, Directors Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.
Absent: None.

Resolution No. 550-06.

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland that, under the authority of Ordinance No. 359-05, passed by the Council of the City of Cleveland on May 5, 2005, the firm of Richard L. Bowen + Associates, Inc. ("Consultant"), is selected upon the nomination of the Director of Port Control from a list of qualified persons or firms determined after a full and complete canvass by the Director of Port Control as the firm of consultants available to be employed by contract to provide design improve-

ments for the terminal restroom renovations, Phase II, for the Department of Port Control.

Be it further resolved that the Director of Port Control is authorized to enter into a written contract with Richard L. Bowen + Associates, Inc. based upon its proposal dated September 19, 2006. The compensation for these services shall be an amount not to exceed \$147,692.00. This contract shall be prepared by the Director of Law and shall contain such other provisions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved by the Board of Control of the City of Cleveland that employment of the following sub-consultants by Richard L. Bowen + Associates, Inc. is approved:

**SUB CONSULTANT AMOUNT
MBE/FBE PARTICIPATION**

Roberts Consulting
20.73% MBE \$30,620.00

McKas Consulting
6.96% FBE \$10,276.00

Yeas: Mayor Jackson, Directors Triozzi, Dumas, Ciaccia, Acting Director Szabo, Director Wasik, Acting Director Bialosky, Directors Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.
Absent: None.

JEFFREY B. MARKS,
Secretary

CIVIL SERVICE NOTICES

General Information

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

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

REYNALDO GALINDO,
President

**SCHEDULE OF THE BOARD
OF ZONING APPEALS**

MONDAY, DECEMBER 18, 2006

9:30 A.M.

Calendar No. 06-238: 2670 East 37th Street (Ward 5)
Hans Klemola, owner, appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) of the Codified Ordinances from a Notice of Violation issued by the Building and Housing Department on October 18, 2006 for the property located at 2670 East 37th Street and failure to comply with the Regulations for Junk and Wrecking Yards; Walls or Fences, according to the provisions of Section 347.06 of the Codified Ordinances.

Calendar No. 06-241: 3018 East 55th Street (Ward 5)
Ian Abrams, d.b.a. The Scrap Yard LLC appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) of the Codified Ordinances from being denied a Junk Dealer or Scrap Metal Processor license on November 17, 2006 by the Commissioner of Assessments and Licenses, upon the disapproval of his license application by the Building and Housing Department for the property at 3018 East 55th Street.

Calendar No. 06-242: 17149 St. Clair Avenue (Ward 11)
Brian Kuhar, d.b.a. All City Recycling, Inc. appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) of the Codified Ordinances from being denied a Junk Dealer or Scrap Metal Processor license on November 17, 2006 by the Commissioner of Assessments and Licenses, upon the disapproval of his license application by the Building and Housing Department for the property at 17149 St. Clair Avenue.

Calendar No. 06-243: 7007 Quincy Avenue (Ward 5)
Gary Gross, d.b.a. Advance Iron and Metal appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) of the Codified Ordinances from being denied a Junk Dealer or Scrap Metal Processor license on November 21, 2006 by the Commissioner of Assessments and Licenses, upon the disapproval of his license application by the Building and Housing Department for the property at 7007 Quincy Avenue.

Calendar No. 06-249: 2925 East 55th Street (Ward 12)
Joseph Immormino, d.b.a. JBI Scrap Processor, Inc., appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) of the Codified Ordinances from a Notice of Violation issued by the Building and Housing Department for the property located at 2925 East 55th Street and failure to comply with the provisions of Sections 327.02(C) and 347.06 of the Codified Ordinances.

Secretary

**REPORT OF THE BOARD
OF ZONING APPEALS**

MONDAY, DECEMBER 4, 2006

At the meeting of the Board of Zoning Appeals on Monday, December 4, 2006, the following appeals were heard by the Board:

The following appeals were **Approved:**

Calendar No. 06-230: 4835 Broadview Road
Villa Care Realty, owner, and Scott Soeder, d.b.a. Home Team Properties, prospective purchaser, appealed to change from a nursing home to commercial offices the use of a two-story brick building in a Multi-Family District.

Calendar No. 06-231: 3420 Paris Avenue
Manuela Rex, owner, appealed to install a 6' tall ornamental fence in the front yard setback of a parcel in a Two-Family District.

Calendar No. 06-232: 3141 Fulton Road
Owen Rex appealed to install a 6' tall ornamental fence in the front yard setback of a parcel in Two-Family District.

Calendar No. 06-233: 1844 West 25th Street
TEG Properties, Inc., owner, and John Stuchal, prospective tenant, appealed to change a two-story building from a store to a restaurant with 28 seats and a staff of 6 employees in a General Retail Business District.

Calendar No. 06-234: 1427 East 45th Street
Urban Housing Ltd., CLV Lofts, LLC and Doug Perkowski appealed to convert a warehouse building to a 20 unit apartment building in a Semi-Industry District.

Calendar No. 06-165: 6104 Carnegie Avenue
3320 Woodland Avenue Ltd. appealed to erect one 50' high billboard with two 14' x 48' sign faces on a triangular shaped parcel in the Midtown Mixed Use District 3; subject to conditions and existing billboard removals.

The following appeal was **Denied:**

Calendar No. 06-211: 11805 Forest Avenue
Audrey Render appealed to expand the use of a one family dwelling by adding a Type A day care in a Two-Family District.

The following appeal was **Withdrawn:**

None.

The following appeal was **Dismissed:**

None.

The following appeal was **Postponed:**

Calendar No. 06-235: 3470 East 93rd Street postponed to February 5, 2007.

In Executive Session on December 4, 2006, the following appeals heard by the Board on November 27, 2006 were adopted and approved.

The following appeal was **Approved:**

Calendar No. 06-229: 2165 West 6th Street
Jeffrey Kennedy appealed to erect a three-story two family dwelling in a Multi-Family District.

The following appeals were **Denied:**

Calendar No. 06-226: 3827 East 71st Street
Vendetta Brown appealed to change from a store to a carry out restaurant the front first floor of a one and two story building in a Multi-Family District.

Calendar No. 06-228: 4514 South Hills Drive
Paul Moreland appealed to erect a one-story metal carport in the rear yard of a dwelling house in a One-Family District.

Calendar No. 06-159: 485 East 140th Street
John Masseria and Wade Park Properties, Ltd., owner, and Michael Steele, prospective purchaser, appealed to change to a used car sales lot the use of an existing building in split zoning between General Retail Business and Multi-Family Districts.

The following appeals heard by the Board on July 3, 2006 were adopted and approved by the Board on December 4, 2006:

The following appeals were **Approved:**

Calendar No. 06-102: 2094 West 7th Street
Michael McBride appealed to erect a three-story single family residence with an attached garage in a Multi-Family District; subject to condition.

Calendar No. 06-103: 2098 West 7th Street
Michael McBride appealed to erect a three-story single family residence with an attached garage in a Multi-Family District; subject to condition.

Calendar No. 06-104: 2100 West 7th Street
Brian McCreary appealed to erect a three-story single family residence with an attached garage in a Multi-Family District; subject to condition.

Calendar No. 06-105: 2106 West 7th Street
Brian McCreary appealed to erect a three-story single family residence with an attached garage in a Multi-Family District; subject to condition.

Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

Re: Report of the Meeting of November 29, 2006

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-60-06

RE: Appeal of Famous Supply Co., Owner of the Property located on the premises known as 11200 Madison Avenue from a NOTICE OF VIOLATION — FIRE CODE of the Chief of the Division of Fire, dated May 11, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-60-06 has been POSTPONED; to be rescheduled when the Board hears from the Fire Prevention Bureau.

* * *

Docket A-97-06.

RE: Appeal of Robert Holcepl, Owner of the Mixed Use — Multiple Uses Property located on the premises known as 2366 West 11th Street from a NOTICE OF VIOLATION — ILLEGAL SIGN of the Director of the Department of Building and Housing, dated August 2, 2006, 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 DISMISS the Notice of Violation dated August 2, 2006 and require that the Appellant apply for the required permits for both the building and electrical for the appendage within two(2) weeks, and that the appendage will remain; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

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

* * *

Docket A-99-06.

RE: Appeal of The Legal Aid Society of Cleveland, Owner of the Property located on the premises known as 1223 West 6th Street from a NOTICE OF VIOLATION — ABATEMENT ORDER of the Chief of the Division of Fire, dated August 21, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-99-06 has been WITHDRAWN at the request of the Fire Prevention Bureau.

* * *

Docket A-116-06.

RE: Appeal of Cuyahoga County of Ohio, Owner of the Property located on the premises known as 4261

Fulton Parkway from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated November 8, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance and permit the control requested on the second exit door, with the provision that the County submits to the Fire Prevention Bureau an emergency plan. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

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

* * *

Docket A-119-06.

RE: Appeal of Zum Properties, Owner of the Property located on the premises known as 11609 Detroit Avenue from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated September 7, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

No action this date; the docket will be rescheduled for December 13, 2006.

* * *

Docket A-121-06.

RE: Appeal of Goodrich Gannett, Owner of the Property located on the premises known as 1400 East 55th Street from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated October 16, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance and permit the system to remain installed and working with the understanding that there is a five (5) year warranty on the performance of the system and the integrity of the piping. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Gallagher.

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

* * *

Docket A-124-06.

RE: Appeal of Furman Brown Jr. C/O Pamela Murray, Owner of the Property located on the premises known as 1147 Addison Road from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated November 16, 2006, 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 Appellants appeal request for occupancy of the second floor in a framed construction, noting that the code clearly requires a fully sprinkled building of this construction to allow that occupancy. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Bradley.

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

* * *

APPROVAL OF RESOLUTIONS:

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

- A-112-06—Mini Maxi Corp.
- A-115-06—MRN Partnership.

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

* * *

APPROVAL OF MINUTES:

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

November 15, 2006

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

* * *

Secretary

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 Monday, December 11, 2006 9:00 a.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 Monday, December 11, 2006, at 9:00 a.m., to consider the following ordinances now pending in the Council:

Ord. No. 1549-06.

By Council Member Coats.

An ordinance changing the Use Districts of parcels bounded by Deise Avenue, Maxwell Avenue, Aspinwall Avenue, E. 140th Street and including portions of Cobalt Avenue and Saranac Road as shown on the attached map from Semi-Industry and General Industry to Residence Industry (Map Change Number 2192, Sheet 7).

Ord. No. 1765-06.

By Council Member Polensek.
An ordinance to change the zoning of property on the south side of Shawnee Avenue near the intersection of Neff Road and East 185th Street to a Two Family Residential District (Map Change No. 2197, Sheet No. 7).

Ord. No. 1885-06.

By Council Member Zone.
An ordinance to change the Use District of land located on the northwest corner of West 65th Street and Storer Avenue, south of Clark Avenue from General Retail Business to a Shopping Center District (Map Change Number 2195, Sheet 2).

Ord. No. 1895-06.

By Council Members Britt, Pierce Scott and Conwell.
An ordinance establishing the University Circle Design District (UCDD) (Map Change No. 2198, Sheet Numbers 4, 8 & 9).

Ord. No. 1896-06.

By Council Member Cleveland.
An ordinance to change the Use, Area and Height District of a parcel of land on the south side of Saint Catherine Avenue near East 93rd Street shown shaded on the attached map from Two Family Residential, a 'B' Area District and a '1' Height District to a General Retail Business District, a 'C' Area District and a '2' Height District (Map Change No. 2200, Sheet 6).

Ord. No. 1897-06.

By Council Member Coats.
An ordinance to change the Use and Area Districts of land on the east side of East 150th Street north of Saint Clair Avenue from a Two Family Residential District, a 'B' Area District to a Multi-Family Residential District and a 'C' Area District (Map Change No. 2201, Sheet 7).

Ord. No. 1898-06.

By Council Members Cummins and Cimperman.
An ordinance to change zoning of land on vacated Jennings Road north of Beltline Street south of Interstate 71 from a Two Family Residential District, a 'B' Area District and a '1' Height District to a Unrestricted Industry District, an 'A' Area District and a '3' Height District (Map Change No. 2202, Sheet No. 6).

Ord. No. 1973-06

By Council Member Coats.
An ordinance to change the Use, Area and Height Districts of the rear half of a parcel of land on the north side of Euclid Avenue east of Avalon Road to a Multi-Family Residential District, a 'D' Area District and a '3' Height District (Map Change Number 2205, Sheet 7).

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

Joseph C. Cimperman
Chairman
Committee on City Planning

November 29, 2006 and December 6, 2006

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, DECEMBER 15, 2006

Labor and Materials Necessary to Maintain and Repair Elevators, Escalators and Moving Walkways, for the Various Divisions of Port Control, Department of Port Control, as authorized by Ordinance No. 1633-06, passed by the Council of the City of Cleveland, October 30, 2006.

THERE WILL BE A NON-MANDATORY PRE-BID MEETING, FRIDAY, DECEMBER 8, 2006 AT 10:00 A.M., CLEVELAND HOPKINS INTERNATIONAL AIRPORT'S CENTRAL RECEIVING BUILDING, MAIN CONFERENCE ROOM, 19451 FIVE POINTS ROAD, CLEVELAND, OHIO 44135-3193.

November 29, 2006 and December 6, 2006

WEDNESDAY, DECEMBER 20, 2006

Demolition and Site Improvements of Memphis School, for the Department of Building and Housing, as authorized by Ordinance No. 757-06, passed by the Council of the City of Cleveland, April 24, 2006.

THERE WILL BE A REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE

FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER PAYABLE TO THE CITY OF CLEVELAND.

THERE WILL BE A MANDATORY PRE-BID MEETING, TUESDAY, DECEMBER 12, 2006 AT 10:00 A.M., DEPARTMENT OF BUILDING & HOUSING ROOM 509, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

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

13.8kV Transformers, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Section 129.26 of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A MANDATORY PRE-BID MEETING, WEDNESDAY, DECEMBER 13, 2006 AT 10:00 A.M., CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

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

November 29, 2006 and December 6, 2006

THURSDAY, DECEMBER 21, 2006

Four Chilled Water Coils, for the Division of Convention Center and Stadium, Department of Parks, Recreation and Properties, as authorized by Ordinance No. 1061-06, passed by the Council of the City of Cleveland, September 25, 2006.

THERE WILL BE A MANDATORY PRE-BID MEETING, TUESDAY, DECEMBER 12, 2006 AT 9:00 A.M., CLEVELAND CONVENTION CENTER, 500 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

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

November 29, 2006 and December 6, 2006

WEDNESDAY, DECEMBER 27, 2006

Consolidated Maintenance Facility - Phase 2-A-1H210, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 1635-06, passed by the Council of the City of Cleveland, October 9, 2006.

THERE WILL BE A REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER PAYABLE TO THE CITY OF CLEVELAND.

THERE WILL BE A NON-MANDATORY PRE-BID MEETING, THURSDAY, DECEMBER 14, 2006 AT 10:00 A.M., CLEVELAND HOPKINS INTERNATIONAL AIRPORT ENGINEERING BUILDING 6C-24C, CONFERENCE ROOM, 19451 FIVE POINTS ROAD, CLEVELAND, OHIO 44135-3193.

November 29, 2006 and December 6, 2006

FRIDAY, DECEMBER 22, 2006

Moving Services, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 1622-06, passed by the Council of the City of Cleveland, October 23, 2006.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, FRIDAY, DECEMBER 15, 2006 AT 1:30 P.M., CITY HALL, DIVISION OF PURCHASES & SUPPLIES, ROOM, 128, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

Purchase of Generator Maintenance and Repair, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 501-06, passed by the Council of the City of Cleveland, July 13, 2006.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** THURSDAY, DECEMBER 14, 2006 AT 10:00 A.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.

Purchase of Material, Labor and Installation of Window Guards, for the Division of Police, Department of Public Safety, as authorized by Ordinance No. 1887-05, passed by the Council of the City of Cleveland, December 5, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, THURSDAY, DECEMBER 14, 2006 AT 10:00 A.M., SUPPLY UNIT, 2200 WEST 3RD STREET, CLEVELAND, OHIO 44113.

December 6, 2006 and December 13, 2006

FRIDAY, DECEMBER 29, 2006

SANS (Storage Area Network) - (Re-Bid), for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 1019-05, passed by the Council of the City of Cleveland, July 13, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, FRIDAY, DECEMBER 15, 2006 AT 10:00 A.M., PENTON MEDIA BUILDING, 1300 EAST 9TH STREET, 4TH FLOOR CONFERENCE ROOM, CLEVELAND, OHIO 44114.

Estimated Quantity of One (1) Fire Aerial Ladder, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 762-05, passed by the Council of the City of Cleveland, May 9, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** THURSDAY, DECEMBER 21, 2006 AT 1:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE BUILDING #1, 4150 EAST 49TH STREET, CLEVELAND, OHIO 44105.

Service Fittings, for the Division of Water, Department of Public Utilities, as authorized by Section 129.25 of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, THURSDAY, DECEMBER 21, 2006 AT 10:30 A.M., DIVISION OF WATER DISTRIBUTION AND MAINTENANCE

PIPE REPAIR CONFERENCE ROOM, 4600 HARVARD AVENUE, NEWBURGH HEIGHTS, OHIO 44105.

December 6, 2006 and December 13, 2006

FRIDAY, JANUARY 5, 2007

South HVAC Upgrade, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 359-05, passed by the Council of the City of Cleveland, May 2, 2005.

THERE WILL BE A **REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER PAYABLE TO THE CITY OF CLEVELAND.**

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, TUESDAY, DECEMBER 19, 2006 AT 10:00 A.M., CLEVELAND HOPKINS INTERNATIONAL AIRPORT ENGINEERING BUILDING 6C-24C, CONFERENCE ROOM, 19501 FIVE POINTS ROAD, CLEVELAND, OHIO 44135.

December 6, 2006 and December 13, 2006

ADOPTED RESOLUTIONS AND ORDINANCES

Res. No. 2014-06.

By Council Member Cimperman.
An emergency resolution withdrawing objection to the transfer of ownership of a C2 and C2X Liquor Permit at 1027 Fairfield Avenue, and repealing Resolution No. 1769-06, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a C2 and C2X Liquor Permit to Fairfield Market, Inc., DBA Fairfield Market, 1027 Fairfield Avenue, Cleveland, Ohio 44113, Permanent No. 2621019, by Resolution No. 1769-06 adopted by the Council on October 23, 2006; 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 C2 and C2X Liquor Permit to Fairfield Market, Inc., DBA Fairfield Market, 1027 Fairfield Avenue, Cleveland, Ohio 44113, Permanent Number 2621019 be and the same is hereby withdrawn and Resolution No. 1769-06, 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 November 27, 2006.

Effective December 1, 2006.

Res. No. 2016-06.

By Council Members Sweeney, Cummins, Kelley and White.

An emergency resolution calling upon the English and Irish governments to take immediate steps necessary to bring to fullness the promises of the All Ireland institutions called for and envisioned by the Good Friday Agreement; requesting the Irish government to formally study the implications of a United Ireland and outline steps fundamental to restore the Irish Nation and publicly report their finding and plans; and respectfully suggesting that the Irish government move without delay to further the peaceful healing of the Irish nation by granting duly elected northern MP's "Speaking Rights" in the Irish parliament and expand the voting rights for the Irish President to the citizens of the six counties of the North of Ireland.

Whereas, Ireland and its people are an ancient and distinct nation; and

Whereas, Ireland is an island nation that has throughout her history been comprised of 32 counties, artificially divided into a 26 county (the Irish Republic) and a 6 county (Northern Ireland) unit in the 1920's; and

Whereas, this artificial, forced division of the Irish Nation was designed to be a transitory answer to the 1920's issues; and

Whereas, history has demonstrated that the Irish people have the right and responsibility to govern themselves; and

Whereas, human and civic rights derive "their just powers from the consent of the governed" and are best guaranteed by the people's freely instituted, duly elected and independent government; and

Whereas, the Irish Republic has the fastest growing economy in the European Economic Union and a unified, independent Irish economy is the most effective way to sustain such dynamic growth and the most fair and impartial path to extend the benefits of such growth to all Ireland; and

Whereas, a unified, independent Irish Police Service and Justice System is most likely to be effective, fair and impartial; and

Whereas, a unified, independent Irish society is most likely to provide for the social and practical needs of its people; and

Whereas, the historic Good Friday Agreement, negotiated with American support, and ratified by the English and Irish governments, as well as a vote of the entire island of Ireland, includes provisions for achieving a United Ireland through purely democratic and peaceful means and provides for the development of North/South Institutions and cross-border cooperation; and

Whereas, this City and the United States have greatly benefited from the contributions of the sons and daughters of Ireland and Cleveland City Council wishes to promote the peace and prosperity for all Ireland; and

Whereas, the democratic reunification of Ireland is the ultimate roadmap to peace and prosperity for the Irish nation and people; and

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

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

Section 1. That this Council hereby calls upon the English and Irish governments to take immediate steps necessary to bring to fullness the promises of the All Ireland institutions called for and envisioned by the Good Friday Agreement.

Section 2. That this Council further requests the Irish government to formally study the implications of a United Ireland and outline steps fundamental to restore the Irish Nation and publicly report their finding and plans.

Section 3. That this Council further respectfully suggests that the Irish government move without delay to further the peaceful healing of the Irish nation by granting duly elected northern MP's "Speaking Rights" in the Irish parliament and expand the voting rights for the Irish President to the citizens of the six counties of the North of Ireland.

Section 4. That the Clerk of Council is hereby directed to transmit certified copies of this resolution to the Ambassador for the Republic of Ireland and the Ambassador for the United Kingdom in Washington, D.C.

Section 5. 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 November 27, 2006.

Effective December 1, 2006.

Res. No. 2017-06.

By Council Member Cimperman.

An emergency resolution withdrawing objection to the transfer of ownership of a D5 and D6 Liquor Permit at 620 Frankfort Avenue, and repealing Resolution No. 1489-06, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a D5 and D6 Liquor Permit to 620 Frankfort, LLC, 620 Frankfort Avenue, Cleveland, Ohio 44113, Permanent Number 8202241, by Resolution No. 1489-06 adopted by the Council on September 11, 2006; 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 D5 and D6 Liquor Permit to 620 Frankfort, LLC, 620 Frankfort Avenue, Cleveland, Ohio 44113, Permanent Number 8202241 be and the same is hereby withdrawn and Resolution No. 1489-06, 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 November 27, 2006.

Effective December 1, 2006.

Res. No. 2018-06.

By Council Member Coats.

An emergency resolution withdrawing objection to the transfer of liquor license of a D1, D2, D3 and D3A Liquor Permit at 18310 Euclid Avenue and repealing Resolution No. 1695-06, objecting to said transfer.

Whereas, this Council objected to the transfer of liquor license of a D1, D2, D3 and D3A Liquor Permit to JC & RW Enterprises, Inc., DBA Euclid Green Lanes, 18310 Euclid Avenue, Cleveland, Ohio 44112, Permanent Number 4261287 by Resolution No. 1695-06 adopted by the Council on October 9, 2006; and

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

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

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

Section 1. That objection to a D1, D2, D3 and D3A Liquor Permit to JC & RW Enterprises, Inc., DBA Euclid Green Lanes, 18310 Euclid Avenue, Cleveland, Ohio 44112, Permanent Number 4261287 be and the same is hereby withdrawn and Resolution No. 1695-06, 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 November 27, 2006.

Effective December 1, 2006.

Res. No. 2019-06.

By Council Member Conwell.

An emergency resolution objecting to a New C1 Liquor Permit at 12333 Superior Avenue.

Whereas, Council has been notified by the Department of Liquor Control of an application for a New C1 Liquor Permit at 12333, Inc., DBA Superior Food Mart, 12333 Superior Avenue, Cleveland, Ohio 44106, Permanent Number 6555110; 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 a New C1 Liquor Permit at 12333, Inc., DBA Superior Food Mart, 12333 Superior Avenue, Cleveland, Ohio 44106, Permanent Number 6555110; 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 November 27, 2006.
Effective December 1, 2006.

Res. No. 2020-06.

By Council Member Johnson.

An emergency resolution withdrawing objections to the renewal of a C2 and C2X Liquor Permit at 12916 Forest Avenue, and repealing Resolution Nos. 1335-05 and 1224-06, objecting to said renewal.

Whereas, this Council objected to a C2 and C2X Liquor Permit to T & J Beverage Company, DBA T & J Beverage Store, 12916 Forest Avenue, Cleveland, Ohio 44120 by Resolution No. 1335-05 adopted by the Council on July 13, 2005 and Resolution No. 1224-06 adopted by the Council on August 9, 2006; and

Whereas, this Council wishes to withdraw its objections 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 objections to a C2 and C2X Liquor Permit to T & J Beverage Company, DBA T & J Beverage Store, 12916 Forest Avenue, Cleveland, Ohio 44120, Permanent Number 87731650005 be and the same is hereby withdrawn and Resolution Nos. 1335-05 and 1224-06, containing such objections, 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 November 27, 2006.
Effective December 1, 2006.

Res. No. 2021-06.

By Council Member Lewis.

An emergency resolution objecting to the transfer of ownership of a D1, D2, D3, D3A and D6 Liquor Permit to 2045 East 21st Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a D1, D2, D3, D3A and D6 Liquor Permit from Kabat & Cull, Inc., DBA Peabody's Concert Club & Patio, 2045 East 21st Street, Cleveland, Ohio 44115, Permanent Number 4425551 to Downunder Entertainment, LLC, DBA Peabody's Entertainment, 2045 East 21st Street, Cleveland, Ohio 44115, Permanent Number 2293436; 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 D1, D2, D3, D3A and D6 Liquor Permit from Kabat & Cull, Inc., DBA Peabody's Concert Club & Patio, 2045 East 21st Street, Cleveland, Ohio 44115, Permanent Number 4425551 to Downunder Entertainment, LLC, DBA Peabody's Entertainment, 2045 East 21st Street, Cleveland, Ohio 44115, Permanent Number 2293436; 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 880-06.

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

An emergency ordinance to amend Section 605.031 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 695-05, passed July 13, 2005, relating to aggressive solicitation.

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 605.031 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 695-05, passed July 13, 2005, is amended to read as follows:

Section 605.031 Aggressive Solicitation

(a) For purpose of this section:

(1) "Aggressive manner" means as follows:

A. Approaching, seeking, or following a person before, during, or after solicitation if that conduct is intended, or likely to cause, a reasonable person to (i) fear bodily harm to oneself or another, (ii) fear damage to or loss of property, or (iii) be intimidated;

B. Intentionally or recklessly touching or causing physical contact with another person without that person's consent in the course of soliciting if the touching or physical conduct is likely to cause a reasonable person to feel restrained or intimidated;

C. Continuing to solicit from a person after the person has given a negative response;

D. Intentionally or recklessly blocking the safe or free passage of a person or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact. Acts authorized by a lawfully issued permit shall not constitute obstruction of pedestrian traffic for purposes of this section; or

E. Intentionally or recklessly using obscene, abusive, or threatening language, or gestures, toward a person being solicited.

(2) "Automated-teller machine" means a device, linked to a financial institution's account records, that is able to carry out transactions, including, but not limited to account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

(3) "Automated-teller machine facility" means the area comprised of one or more automated-teller machines, and any adjacent space that is made available to banking customers.

(4) "Public property" means all property owned, operated or controlled by any governmental agency, including but not limited to streets, public sidewalks, tree lawns, parks, playgrounds, publicly-owned parking lots, schools, libraries, post offices, municipal transit facilities and other public lands and buildings.

(5) "Solicit" or "soliciting" means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, by gesture or by other means of communication.

(b) No person shall solicit:

(1) In an aggressive manner;

(2) Within twenty feet of any automated-teller machine without the consent of the owner or other person legally in possession of the machine, provided, however, that when an automated-teller machine is located within an automated-teller machine facility, the distance shall be measured from the entrance or exit of the automated-teller machine facility;

(3) Within twenty feet of a bus stop, rapid-transit shelter, or bus shelter;

(4) Within twenty feet of a line of pedestrians waiting to obtain access to a building or event;

(5) Within twenty feet of the area of the sidewalk used by an outdoor restaurant under a temporary public right-of-way occupancy permit issued under Chapter 513 of the Codified Ordinances or by a vendor under a permit issued under Chapter 508, Section 675.06, or Section 675.07 of the Codified Ordinances;

(6) Within twenty feet of a valet zone established under Section 451.33 of the Codified Ordinances;

(7) Within fifteen feet of any pay telephone, provided, however, that when a pay telephone is located within a telephone booth or other facility, the distance shall be measured from the entrance or exit of the telephone booth or facility;

(8) Within fifteen feet of the entrance or exit of any public toilet facility;

(9) On public property within ten feet of an entrance to a building;

(10) On public property within ten feet of an entrance to a parking lot;

(11) On a public street, by intentionally or recklessly blocking the safe or free passage of a person or vehicle.

(c) Whoever violates division (b)(1) of this section shall be guilty of a misdemeanor of the fourth degree for a first offense, a misdemeanor of the third degree for a second offense, and a misdemeanor of the first degree for a third and subsequent offense. Whoever violates any provision in division (b)(2) through (b)(10) of this section shall be guilty of a minor misdemeanor for a first offense, and a misdemeanor of the fourth degree for a second and subsequent offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(d) The Director of Public Safety shall report to this Council by December 31 of each year on the enforcement activity under this section that occurred in the twelve-month period prior to the report, or such longer period as may be necessary to cover all enforcement activity since the last report. The first report shall be made in 2007. Each report shall include, without

limitation, the hours of time expended by the Division of Police in enforcement, the total number of cases, and the gender, race, and age of each offender.

Section 2. That existing Section 605.031 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 695-05, passed July 13, 2005, 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 November 27, 2006.

Effective December 1, 2006.

Ord. No. 1282-06.
By Council Members Cimperman, Kelley, Cleveland and Sweeney (by departmental request).

An ordinance to amend Sections 350.01, 350.03, 350.06, 350.07, and 350.10, of the Codified Ordinances of Cleveland, Ohio, 1976, as amended or enacted by various ordinances relating to wall murals; to amend Section 341.021, as amended, relating to the airport land protective district; to enact new Sections 350.161 and 350.162 of the codified ordinances relating to wall murals; and to authorize the City to enter into a lease with Clear Channel Outdoor to erect a billboard on land at Cleveland Hopkins International Airport.

Whereas, it is the public policy of the City of Cleveland to protect and enhance the function and appearance of the Central Business District as a lively civic center and vibrant hub of business, consumer trade and commercial activity; and to protect and enhance the aesthetic character of the Central Business District to residents and visitors in a manner consistent with its role; and

Whereas, it is also the public policy of the City of Cleveland to stabilize and improve property values within the Central Business District, to utilize the Central Business District to facilitate strengthening the economy of the City, and to stimulate business, consumer trade and commercial activity; and

Whereas, it is also the public policy of the City of Cleveland to enhance the visual attractiveness of the Central Business District through the display of graphic works of art and vibrant visual images; and

Whereas, some of buildings and structures within the Central Business District have large, unsightly exterior walls that detract from the appearance of the district as a lively civic center and vibrant hub for business, consumer trade and commercial activity; and

Whereas, covering an unsightly exterior wall with graphic art displayed via high resolution or other state of the art media will improve the visual qualities of the wall; 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 350.01 and 350.03, as enacted by Ordinance No. 3076-A-89, passed December 10, 1990

Section 350.06, as amended by Ordinance No. 1428-98, passed

Section 350.07, as enacted by Ordinance No. 3076-A-89, passed December 10, 1990, and

Section 350.10, as amended by Ordinance No. 452-01, passed June 19, 2001

are amended to read as follows:

Section 350.01 Intent

Sign regulations, including provisions to control the type, design, size, location and maintenance of signs, are hereby established to achieve the following purposes:

(a) To enable the public to locate goods, services and facilities without difficulty or confusion;

(b) To protect property values, public investment and overall neighborhood character by preventing conditions which have undesirable impacts on surrounding properties;

(c) To promote the development of attractive and harmonious residential districts, viable commercial districts and approximately identified industrial uses;

(d) To provide a safe environment through the regulation of private signs and lighting which may distract attention from or obstruct the visibility of traffic information devices; and

(e) To protect scenic views and the visual environment along city streets and limited access highways.

(f) To improve the aesthetic appearance of exterior walls of buildings in a manner consistent with a district's role as a lively civic center and a vibrant hub for business and consumer trade and commercial activity and without materially changing significant and distinct architectural or historical features of such buildings.

Section 350.03 Definitions

As used in this Chapter, the terms listed below shall be interpreted according to the following definitions:

(a) *Sign.* Any device, structure, fixture, painting or visual image designed to be seen from an outdoor location and using graphics, symbols, letters or numbers for the purpose of conveying a message or advertising or identifying any establishment, product, goods or service. (A searchlight is not classified as a sign).

(b) *Sign Panel.* A structural object or portion of a structural object designed to form a distinct background area or frame for the display of a sign's information — including all non-opaque surface area of an internally illuminated canopy or wall panel displaying signage.

(c) *Unit of a Building.* A space occupying a portion of the ground floor of a building, containing an entrance from the building exterior, and separated from other such spaces by a party wall or walls.

(d) *Freeway.* A limited-access or controlled-access public highway characterized by entrance and exit

ramps and an absence of traffic signals and stop signs along the main roadway.

(e) *Signs by Use Type.* For the purpose of identifying permitted signs, all signs are classified by use type and defined as follows:

(1) *Billboard.* A sign directing attention to a specific business, product, service, entertainment activity or other commercial activity sold, offered or conducted elsewhere than upon the lot on which the sign is located.

(2) *Bulletin Board.* A sign for the display of announcements of a public or semi-public institution and located on the grounds of that institution.

(3) *Business Sign.* An "identification sign" (as defined below) which also may display such detailed information about the operation of a business as brand names of goods or services offered on the premises, prices or special "sale" information, forms of payment accepted, hours of operation, telephone number or other similar information.

(4) *Development Sign.* A temporary sign announcing a development to be located on the subject property and identifying firms or individuals participating in the development process.

(5) *Directional Sign.* A sign indicating a direction or a location to which pedestrian or vehicular traffic is requested to move.

(6) *Identification Sign.* A sign identifying or naming a building, business, institution, residential development or other use and displaying such other information as the owner, manager and address of the use or building.

(7) *Information Sign.* A sign which presents miscellaneous information or instructions intended to serve the public rather than to promote a business, product or issue and not containing information included in the definition of any other sign.

(8) *Nameplate.* A sign indicating the name, address and/or profession of a person or persons occupying a residence.

(9) *Political Sign.* A temporary sign advocating action on a public issue, indicating a candidate for public office, or expressing an opinion or belief.

(10) *Real Estate Sign.* A temporary sign promoting the rental, sale or lease of property.

(11) *Temporary Sign.* A sign announcing special events or sales, the sale or rental of property, political positions or other matters and intended for use for a limited period of time.

(12) *Wall Mural.* A sign that displays high resolution static or electronic graphic or photographic images, including decorative art and art used in commerce, placed on an unsightly wall of a building, or unsightly roof surface generally parallel to the building wall surface. A wall mural may display words in accordance with Section 350.161 and otherwise shall comply with Section 350.161. A wall mural may depict or direct attention to a specific business, product, service, entertainment activity, or other activity. Wall murals shall not be deemed billboards or wall signs for purposes of

Chapters 350 and 341 of this Zoning Code and Chapters 161, 303, 3113, and 317 of the Codified Ordinances.

(f) *Signs by Structural Type.* For the purpose of identifying permitted signs, all signs and particular related objects are classified by structural type and defined as follows:

(1) *Banner.* A temporary sign of lightweight fabric or similar material that is mounted to a pole or a building (excluding flags and pennants as defined herein).

(2) *Changeable Copy Sign (Automatic).* A sign or portion thereof on which the copy changes automatically or animation is displayed through electrical or electronic means (e.g., time and temperature units and message centers).

(3) *Changeable Copy Sign (Manual).* A sign or portion thereof on which copy is changed manually through placement of letters or symbols on a sign panel.

(4) *Canopy Sign.* A sign attached to or printed on the fascia or valence of a canopy, awning or marquee or hanging from the soffit (underside) of such structure.

(5) *Flag.* An object, typically of lightweight fabric material, used as a symbol of a government, political entity or nationality group.

(6) *Flashing Sign.* A sign illuminated by intermittent light in a manner designed to attract attention.

(7) *Free-standing Sign.* A sign which is not attached to a building and which is either attached directly to the ground, placed directly on the ground, displayed on a natural or man-made object (other than a building), or elevated on a pole or other supporting structure attached to the ground.

(8) *Pennant.* An object or sign of lightweight fabric or similar material, suspended from a rope, wire or string, usually in series, and designed to move in the wind, also including streamers, pinwheels, balloons and similar small objects.

(9) *Portable (Mobile) Sign.* A temporary sign which is designed to be moved and is not permanently attached to any part of a building or to the ground.

(10) *Projecting Sign.* A sign erected on the outside wall of a building and projecting out at an angle therefrom.

(11) *Roof Sign.* A sign erected upon and completely over the roof of any building.

(12) *Wall Sign.* A sign attached to or displayed or painted on an exterior wall in a manner parallel with the wall surface and not projecting more than sixteen (16) inches from such surface. (A sign mounted on a roof surface which is generally parallel to the wall surface shall also be considered a "wall sign.")

(13) *Window Sign.* A sign painted on, attached to, or suspended directly behind or in front of a window or the glass portion of a door.

Section 350.06 Prohibited Signs

The following types of signs are prohibited in all zoning districts:

(a) Strips of pennants, propellers, pinwheels, streamers, balloons and similar small objects except as temporary displays specifically authorized for carnivals and open-air fes-

tivals under Section 329.07 and for new businesses under division (c) of Section 350.20.

(b) Signs imitating or resembling official traffic or government signs and signals.

(c) Signs attached to trees, rocks or natural formations or public property including but not limited to utility poles, benches, trash containers and parking meters, except as specifically authorized by the City.

(d) Moving, revolving or flashing signs except as provided in Section 350.10(1)(5), Section 350.16, and Section 350.161 governing wall murals.

(e) Signs attached to any condemned structure, as defined in Section 363.29 or any structure condemned or declared a nuisance structure pursuant to Section 3103.09.

Section 350.07 Illumination of Signs

Signs may be illuminated only in accordance with the following regulations:

(a) *Controls.* Sign illumination shall be designed and placed so as not to cause glare which may result in traffic hazards or which may interfere with the customary use of nearby residences.

(b) *Prohibitions.* Flashing or intermittent illumination shall not be permitted except as provided in Section 350.10(1)(5), Section 350.16, and Section 350.161 governing wall murals using electronic media.

(c) *Districts.* In Residential Districts, only nameplates and bulletin boards may be illuminated. All signs in non-residential districts may be illuminated.

(d) *Electronic Message Centers.* Signs displaying electronically-changing or animated messages (as defined in division (f)(2) of Section 350.03) are permitted as specified in the "schedules" referenced in division (b) of Section 350.14 and division (b) of Section 350.15 and as permitted in Section 350.161 governing wall murals.

Section 350.10 Billboards

Billboards, as defined in division (e)(1) of Section 350.03, shall be permitted only in accordance with the following regulations and other applicable regulations of this Chapter:

(a) *Zoning Districts.* Billboards shall be permitted only in General Industry and Unrestricted Industry Districts, except that billboards directed at any angle toward a freeway may be permitted in Semi-Industry Districts. Billboards shall not be permitted in Cleveland Landmark Districts, Public Land Protective Districts, Business Revitalization Districts or on the opposite side of any street bordering such districts. No billboards shall be permitted on the east side of State Route 176 (the Jennings Freeway) and only one billboard shall be permitted on the west side of State Route 176 (the Jennings Freeway).

(b) *Sign Types.* Billboards shall be permitted as either free-standing or wall signs, unless otherwise restricted in these codified ordinances. In General Industry and Unrestricted Industry districts, billboards shall also be permitted as roof signs not exceeding permitted building height and meeting the

standards of division (h) of Section 350.08.

(c) *Size.* Billboard sign panels shall not exceed eight hundred and twenty (820) square feet in area and shall be further limited in size by the setback regulations in divisions (g) and (h) of this section. For purposes of determining required setbacks, the measurement of sign panel area shall exclude "extensions" projecting beyond the otherwise rectangular or standard geometric panel dimensions, provided that these extensions do not exceed 21% of such standard panel area.

(d) *Height.* The maximum height of a billboard above the roadway surface to which it is oriented shall be fifty (50) feet. However, in no case shall the height of the billboard as measured from the grade of the lot on which it is placed exceed the maximum permitted height for main buildings.

(e) *Spacing.* Along freeways, the minimum distance between billboards located on one side of the road shall be fourteen hundred (1400) feet. Along freeways, the minimum distance between billboards located on opposite sides of the road and visible to approaching traffic shall have a minimum spacing of five hundred (500) feet. Along other roads, such distance shall be seven hundred fifty (750) feet between two billboards which are each less than one hundred (100) square feet in area and shall be one thousand (1000) feet in all other instances. Except for double-sided ("back-to-back") billboard panels, not more than one (1) billboard panel may be located on a single structure.

(f) *Distance from Street Lines.* Billboards shall be located behind the required building setback lines of the lots on which they are located. In addition, billboards shall be located a minimum distance of twenty-five (25) feet measured in any direction from the point of intersection of the right-of-way lines of two intersecting streets.

(g) *Distance from Zoning District Lines.* Billboards located along streets other than freeways shall be set back at least two hundred (200) feet from Residential, Local Retail and General Retail District lines. For such billboard panels exceeding three hundred eighty (380) square feet in area, all minimum setbacks from zoning district lines shall be increased one (1) foot for each one (1) additional square foot of sign panel area. Billboards along freeways shall be set back at least fifty (50) feet from Residential, Local Retail, and General Retail District lines.

(h) *Distance from Bridges not on Freeways and from Parkways.* A billboard directed at any angle toward a bridge, not on a freeway or toward a bridge not on a freeway or toward a parkway shall be set back from the outer pavement edge a minimum of one (1) foot for each one (1) square foot of sign panel area. However, the minimum such setback shall be three hundred thirty (330) feet. Furthermore, as required by State regulations, no billboard may be located within five hundred (500) feet of the inter-

change of a freeway, as measured along the right edge of the main-traveled roadway in the direction of travel from the beginning or ending of pavement widening at the exit or entrance to the freeway.

(i) *Distance from Freeways.* A billboard directed at any angle toward a freeway shall be located outside of the freeway right of way, but in no case closer than fifty (50) feet from the freeway pavement edge.

(j) *Illumination.* Billboards shall be illuminated only by means of continuous reflected light. Internally-illuminated or back-lit billboards shall not be permitted. Billboards shall not include automatic changeable copy signs (i.e., electronic message centers) as defined in division (f)(2) of Section 350.03.

(k) *Referral to City Planning Department.* Any Building Permit application for installation of a new billboard shall be referred to the Director of the City Planning Department for a determination of compliance with the location, spacing and setback regulations of this section. In making this determination, the Director and staff of the Department shall utilize a map maintained by the Department showing locations of existing billboards, zoning districts and other information necessary to make such determination.

(l) *Nonconforming Billboards.* Notwithstanding the provisions of Section 350.19, a legal nonconforming billboard may be replaced or may be reconstructed to an extent greater than otherwise permitted if the City Planning Commission deems that such replacement or reconstruction will satisfy the following conditions:

(1) *Site and Design Improvements.* The site of the new or reconstructed billboard shall be landscaped and otherwise improved, through use of an ornamental base or frame, a streamlined support structure, or similar features effective in improving the appearance of the site. At a minimum, evergreen shrubs, at least three (3) feet in height at the time of planting and four (4) feet in height after two (2) growing seasons, shall be planted at maximum intervals of four (4) feet along any side of the base of the billboard oriented toward a public street. Such planting shall extend at least the full width of the billboard panel. In addition, all portions of the parcel(s) of land on which the billboard site is located shall be planted with grass or other suitable vegetative ground cover between the billboard and all public streets abutting the parcel(s).

(2) *Degree of Nonconformity.* The new or reconstructed billboard shall be no greater in size, height, number of panels, or any panel dimension than is the existing billboard, nor shall the new or reconstructed billboard be less conforming to any zoning regulation than is the existing billboard, except that a panel or sign face may be added to the back of a billboard where previously there had been no panel or sign face.

(3) *Location.* The new or reconstructed billboard shall be placed in

precisely the same location as the existing billboard unless the City Planning Commission determines that a different location on the same parcel of land would be more effective in meeting the intent of the sign regulations, as stated in Section 350.01.

(4) *Sign Type.* With respect to the "sign types" defined in division (f) of Section 350.03, the new or reconstructed billboard shall be the same type as the existing billboard unless the City Planning Commission determines that a different sign type would be more compatible with the subject property or nearby properties.

(5) *Changeable Copy.* The new or reconstructed billboard may incorporate automatic changeable copy only if such copy is limited to a single billboard panel or two back-to-back billboard panels and only if each such panel replaces two or more billboard panels on a single parcel of property or two or more billboard panels on adjacent properties. The replacement billboard panel shall not be larger than any of the billboard panels it is replacing. In the case of a sign utilizing changeable copy, each message shall remain fixed for at least eight (8) seconds.

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

Sections 350.01 and 350.03, as enacted by Ordinance No. 3076-A-89, passed December 10, 1990

Section 350.06, as amended by Ordinance No. 1428-98, passed

Section 350.07, as enacted by Ordinance No. 3076-A-89, passed December 10, 1990, and

Section 350.10, as amended by Ordinance No. 452-01, passed June 19, 2001

are repealed.

Section 3. That Section 341.021 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 452-01, passed June 19, 2001 is amended to read as follows:

Section 341.021 Lakefront Public Land Protective Districts

In accordance with the policy of enhancing the development of the City as set forth in the Zoning Code, Council deems it essential to the general health, safety, and welfare that the public investments in the lakefront airport, public utilities, and public parks be protected; that a high quality of design and development of properties surrounding these public investments be maintained; and that development incompatible with the safe and efficient operations of the City's lakefront airport be prohibited.

Therefore, in furtherance of the basic principle set forth in Section 341.01 of these codified ordinances that reasonable controls over the character and design of buildings and structures adjoining these public properties and facilities are essential for the promotion of the public health, safety, property, comfort and the general social and economic welfare of the City, the Cleveland Lakefront Public Land Protective District is created as described below.

The Cleveland Lakefront Public Land Protective District

Beginning at the intersection of the center line of Lake Avenue, N.W. and the center line of West Boulevard, N.W.; thence northeasterly along said center line of West Boulevard, N.W. to the center line of Cliff Drive, N.W.; thence northwesterly along said center line of Cliff Drive, N.W. and along its northwesterly prolongation to its intersection with the southeasterly line of Permanent Parcel No. 001-04-009; thence northeasterly along said southeasterly line of said Permanent Parcel No. 001-04-009 and along its northeasterly prolongation to its intersection with the shoreline of Lake Erie; thence southeasterly, northerly, southeasterly, northwesterly and northeasterly along said shoreline of Lake Erie to its intersection with the westerly line of the Breakwall; thence northerly along said westerly line of the Breakwall to its intersection with the northwesterly line of said Breakwall; thence northeasterly along said northwesterly line of said Breakwall and continuing northeasterly following the most northwesterly line of said Breakwall and or shoreline of Lake Erie to its intersection with the northerly prolongation of the City Line separating the City of Cleveland and the Village of Bratenahl; thence southerly along said northerly prolongation and along said City Line separating the City of Cleveland and the Village of Bratenahl and along its southerly extension to its intersection with the southeasterly line of the New York Central (Lake Shore and Michigan Southern Railway) Railroad; thence southwesterly along said southeasterly line of said New York Central (Lake Shore and Michigan Southern Railway) Railroad to its intersection with the northwesterly extension of the center line of East 33 Street; thence southeasterly along said northwesterly extension and along said center line of East 33 Street to the center line of the Innerbelt Freeway ramp at King Avenue, N.E.; thence southwesterly along said center line of said Innerbelt Freeway ramp at King Avenue, N.E. to the center line of said Innerbelt Freeway; thence southeasterly along said center line of said Innerbelt Freeway to its intersection with the southeasterly line of the Pennsylvania Railroad; thence southwesterly along said southeasterly line of said Pennsylvania Railroad to said southeasterly line of New York Central Railroad; thence continuing southwesterly along said southeasterly line of said New York Central Railroad to its intersection with the center line of Lake Avenue, N.W.; thence northwesterly along said center line of Lake Avenue, N.W. to the place of beginning and as outlined in red on the map attached to the enacting ordinance be and the same is now defined as the Lakefront Public Land Protective District.

Section 4. That existing Section 341.021 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 452-01, passed June 19, 2001 is repealed.

Section 5. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 350.161 and 350.162 to read as follows:

Section 350.161 Wall Murals

(a) *Districts Where Permitted.* Wall murals shall be permitted within the Central Business District and the portion of the Flats-Oxbow Business Revitalization District that is north of the Detroit-Superior Bridge and east of the Cuyahoga River. Within those districts, wall murals may be permitted in any community development plan area, public land protective district, landmark district, business revitalization district, urban renewal district, and any overlay district subject to the provisions of this section. Notwithstanding the provisions of Chapters 161, 303, 317, and 341 of the Codified Ordinances, this section shall constitute design and all other guidelines and requirements for all wall murals located within all community development plan areas, public land protective districts, landmark districts, business revitalization districts, urban renewal districts, and every overlay district within the Central Business District as well as any other area and district in which wall murals may be authorized.

(b) *Definitions.*

(1) As used in this section "agency or official of the City" means Mayor, director, commissioner, commission, board, bureau, department, advisory committee, or any other body or official exercising the powers vested by § 67 of the Charter or to whom such powers have been delegated.

(2) As used in this section, "architectural" means a style of building recognized in the art and science of architecture as characterized by peculiarities of structure, ornamentation, or motif.

(3) As used in this section, "the display" means the displayed images and words together with the art or pictorial background on which the images and words appear, excluding any nameplate that identifies the permit holder or its assignee.

(4) As used in this section, "historic" means recognized as distinctly important in the social science of history that records, studies, and explains the character and significance of past human activities, including the use made of buildings.

(c) *Design Requirements.*

(1) Primarily Pictorial. The sign shall display non-verbal graphic or non-verbal photographic images, and may display words. The aggregate area of all words on a static display exclusive of the sign nameplate and trademarks, service marks or other distinct product or company logos shall comprise no more than twenty percent (20%) of the area of the display.

(2) *Type of Medium.* The medium for the display shall be electronic as a static or moving image or a combination of each, or as a static image upon a single sheet of vinyl or other material that presents a high-resolution image ("other high-resolution material"). A display is

"electronic" if its images, while being displayed on the wall mural, are generated by computer or otherwise by the controlled conduction of electrons or other charge carriers.

(3) *Vinyl or other High-Resolution Medium.* If the medium is vinyl or other high-resolution material, it shall comply with all of the following:

(i) The resolution of the display shall be a minimum of 300 dots-per-inch ("DPI");

(ii) If vinyl, the grade of vinyl shall be a minimum twelve-ounce flex vinyl, twelve-ounce mesh vinyl, or twelve-ounce sailcloth vinyl;

(iii) The display may be changed or replaced up to six times within any 12-month period in addition to any change necessary to repair or restore the sign if the structure or medium is defaced, damaged or destroyed;

(iv) The sign panel or other structure to which the vinyl or other high-resolution material is attached shall not appear from line-of-sight in front of the display as a distinct frame surrounding the exterior of the display;

(d) *Size of Display.* The total area of the display shall be no less than 80% of the total area of the wall on which the sign is located except where:

(1) A smaller sign is required to avoid covering a distinctive architectural or historic feature of the building; or

(2) A smaller sign is required to avoid interference by structures, other buildings, trees, or other obstacles with line-of-sight visibility of the display by the vehicular traffic to which the sign is oriented; or

(3) A smaller sign is required to ensure safety in erecting, changing, or maintaining the display or sign structure; or

(4) A smaller sign is required because the structure of the building or wall will not support or otherwise accommodate the sign structure necessary for the display to cover 80% of the wall area.

(e) *Maximum Number of Wall Murals.* Exclusive of legal nonconforming wall murals or wall signs, no more than six wall murals authorized by this section may be displayed simultaneously within the Central Business District or the portion of the Flats-Oxbow Business Revitalization District that is north of the Detroit-Superior Bridge and east of the Cuyahoga River.

(f) *Standards for Wall Placement and Removal.*

(1) The wall mural shall be displayed on an exterior wall in a manner parallel with the wall surface;

(2) The wall mural shall not project more than 16 inches from the wall surface if the medium is vinyl or other high-resolution material, and not more than 28 inches if the medium is electronic;

(3) The wall mural shall be set back from each vertical and horizontal end of the wall a minimum distance of six inches;

(4) *Illumination.* Except for displays that are electronic, the displays of wall murals shall be illuminated by continuous reflected light directed from an external light source onto the display.

(5) *Repair and Removal.* Each wall mural shall be secured in a manner that will require minimal repair after removal. The person in control of a wall mural or the owner of the wall shall repair all damage caused to the wall by securing or removing the wall mural. Upon removal, if required by the City Planning Commission or the Landmarks Commission, the entire wall face shall be painted by the owners or person in possession of the wall with a high quality exterior paint guaranteed by the manufacturer to last at least 10 years before weather causes the paint to deteriorate. The paint shall be a solid color that is consistent with the color of the building.

(6) A wall mural shall not cover, destroy, or materially alter an architectural feature distinct from a generally flat, unornamented wall surface unless the City Planning Commission or Landmarks Commission permits the wall mural to cover the architectural feature;

(7) A wall mural shall not cover, destroy, or materially alter a distinctive historic feature of the building unless the City Planning Commission or Landmarks Commission permits the wall mural to cover the historic feature.

(8) Finishes, textures, construction techniques, designs, colors, craftsmanship, and building materials that characterize a distinctive historic or architectural feature of a building shall be preserved. To prevent material alteration:

(i) Wall murals adjacent to a distinctive historic or architectural feature of a building shall be secured in a manner that, if removed in the future, would not impair the form and integrity of the feature

(ii) Chemical or physical treatments, such as sandblasting, that may cause damage to any distinctive historic or architectural feature shall not be used.

(iii) All surface cleaning of the portion of a wall mural or underlying wall adjacent to a distinctive historic or architectural feature shall use a means that will not disturb the feature's color, texture, or other visual qualities, accelerate deterioration or otherwise impair the structure of the feature.

(g) *Permit for Erection of Wall Murals.*

(1) No wall mural may be erected or replaced unless and until the person in control of the display applies for and obtains the following:

(i) A permit under Section 3113.03 of the Building Code and Section 350.04 of the Zoning Code; and

(ii) If the proposed location falls within a landmark district, or is located on a landmark, approval by the Landmarks Commission applying the provisions of this section; or

(iii) If the proposed location falls within any other district or plan area, but not a landmark district, approval by the Planning Commission applying the provisions of this Section, or by the City Planning Director pursuant to the rules of the Planning Commission for administrative approval, applying the provisions of this section.

(2) All approvals required for the erection or replacement of wall

murals shall be documented by notation on the permit application during its evaluation, or by issuance of a separate legal instrument reciting the approval. No permit shall be issued if the approvals required by this section have not been obtained.

(3) A permit issued in accordance with this section shall be construed to be a license to proceed during the life of the permit with the erection or replacement of the wall mural as described in the approved permit application so long as fewer than six wall murals are on display simultaneously within the Central Business District or the portion of the Flats-Oxbow Business Revitalization District that is north of the Detroit-Superior Bridge and east of the Cuyahoga River and shall be construed as signifying all approvals required by this section. All permits and applications for permits authorized by this section shall be in the name of the person in control of the display. Such permits shall convey to such person all rights and privileges prescribed by this section, which may be assigned, and impose upon such person all duties prescribed by this section, which may be delegated. The person in control of the display, including all assignees and delegees, shall place a nameplate on the wall mural when erected or replaced that identifies that person, and shall notify the City Planning Director of the identity and current postal address of that person.

Nothing in this section shall be construed as authorizing the erection or placement of a wall mural without the consent of the owner or person in possession of the wall where the wall mural would be located.

(4) *Expiration.* A permit to erect or replace a wall mural shall expire if the wall mural is not erected and bearing a display within one year after the date of the issuance of the permit.

(5) Holders of permits authorizing the erection or replacement of wall murals shall have priority over all other holders based on the date and time of issuance of each permit, with the earlier date and time having priority.

(6) A wall mural shall be removed if it has no display for a continuous period of six months. It shall not be re-erected or replaced without obtaining a new permit pursuant to this section.

(7) The City shall keep a permanent record of all permits issued for wall murals including dates and times of issuance, which shall be available for public inspection and copying.

(8) *Change or Replacement of Display.* A change or replacement of a display shall not require a permit or any other approval by the City. However, a change of material or method of attachment to the building or wall surface shall be deemed a replacement of the wall mural, requiring a new permit, unless such change is authorized by Section 350.19 of this Zoning Code.

(h) *Standards for Determining Whether To Issue Permit for Wall Murals.* An application for a permit to erect or replace a wall mural

shall be granted if the wall mural as proposed satisfies the criteria of this section. Such criteria are in lieu of the standards and guidelines prescribed and authorized elsewhere in the Codified Ordinances for a permit, certificate of appropriateness, or other approval by any agency or official of the City except those set forth in the Building Code addressing structures and materials for signs.

For those geographic areas where the City Planning Commission has jurisdiction as set out in the Codified Ordinances, a permit shall not be issued unless the City Planning Commission determines that all of the following are satisfied. For those areas where the Landmarks Commission has jurisdiction as set out in the Codified Ordinances, a permit shall not be issued unless the City Planning Commission determines that all of the following are satisfied:

(1) *Walls Eligible for Wall Murals.* The proposed location of a wall mural shall be on an exterior building wall that qualifies as unsightly at the time that the application for a permit is pending. A wall shall be deemed unsightly if its facade is a generally flat surface, lacking distinctive external architectural ornamentation, is constructed of poor quality or inappropriate construction materials, or is in disrepair.

(2) *No Interference with Distinctive Architectural and Historic Features.* Placement of a wall mural at the proposed location shall not be clearly incongruous with — or obscure or compromise the design integrity of — distinctive architectural or historic features of the building and of the architectural or scenic character of surrounding properties within 250 lineal feet from the wall. A personal preference of any agency or official that wall murals as a class are incongruous with the Central Business District or the portion of the Flats-Oxbow Business Revitalization District that is north of the Detroit-Superior Bridge and east of the Cuyahoga River as a whole shall not be considered.

(3) *Findings of Clear Incongruity/Material Alteration of Distinctive Architectural, Historic Features.* If the agency or official of the City responsible for evaluating an application for a permit decides to deny the application because the proposed wall mural would be clearly incongruous with, or would materially alter, a distinctive historic or architectural feature, that agency or official shall state the grounds for such finding in writing delivered to the applicant. On the applicant's appeal of such finding and denial, the agency hearing the appeal shall find for the applicant unless the agency or official demonstrates clear incongruity or material alteration. As to that finding, such an appeal shall be heard de novo.

(4) *No Pending Notices of Violation.* No permit to erect or replace a wall mural shall be issued if, while the permit application is pending, a notice issued pursuant to Section 3101.10 of the Building Code is unresolved as to the building on which the proposed wall mural would be

placed. A permit may be issued upon resolution of the alleged violation that is the subject of the notice.

(5) *Content of Display Not Subject To Approval.* No agency or official of the City shall prescribe or otherwise require approval of the color, graphic design, words, message, or any other element of the content of any display, nor shall any agency or official of the City require advance submission of the content of a display before granting a permit or other approval required or authorized by the Codified Ordinances.

(6) *Administrative Authority To Establish Other Criteria.* No agency or official of the City is authorized to establish criteria, standards, or guidelines that add restrictions, conditions, or requirements to those set forth in this section. However, each reviewing agency or official shall be allowed to follow its procedural rules and regulations, unless those rules and regulations conflict with this section. In that case, this section shall govern.

(7) The wall mural's size and placement is appropriate to achieve the objective of beautifying the unsightly wall.

(i) *Application for Permit.*

(1) Each application shall address one wall mural proposed for one wall.

(2) Completed and satisfactory applications for permits to erect or replace wall murals filed first in accordance with this section shall be given priority over all other completed and satisfactory applications. The Building Commissioner shall record on the application the time and date upon which each application is filed, and maintain all filed applications or copies for at least 10 years from the date of filing.

(3) The applicant for a permit prescribed by this section shall file such application with the Building Commissioner, who shall forward the application to the appropriate agency or official responsible for evaluating it within seven days of receiving it.

(4) The application shall be accompanied by a color photographic or digital image of the proposed wall location in the context of adjoining properties, and the same color image shall also depict the proposed wall mural to represent with general accuracy the appearance of the wall with the addition of the mural. The agency or official of the City responsible for evaluating the application may require additional photographic or digital images to be submitted with the application relevant to the criteria prescribed by this section.

(5) The application shall also be accompanied by:

(i) The materials and information required by Section 350.04(C) of this Zoning Code and 3113.03(g) of the Building Code;

(ii) The street address of the building upon which the proposed wall mural would be located;

(iii) A list of streets and other vehicular rights of way to which the proposed mural principally would be oriented;

(iv) A calculation of the area of the wall upon which the wall mural would be located and a cal-

ulation of the area of the expected display;

(v) If the area of the expected display would be less than 80% of the wall area, the reasons for the smaller display;

(vi) A description of the medium to be used for the display, and if vinyl or other high-resolution material, a description of its grade and a calibration of the dots-per-inch of the resolution of the display;

(vii) A list of buildings within the Central Business District and the portion of the Flats-Oxbow Business Revitalization District that is north of the Detroit-Superior Bridge and east of the Cuyahoga River where existing wall murals are on display at the time of filing the application;

(viii) The telephone number and postal address of the applicant and the name, telephone number, and postal address of the owner of the building to which the wall mural would be secured and a statement as to whether the owner or person in possession of the wall has consented to erection of the proposed wall mural.

(j) *Time for Granting or Denying Application for Permit.*

(1) Within 60 days after receiving an application for a permit or up to an additional 60 days if requested by the applicant or needed by the agency or official responsible for evaluating the application, the agency or official of the City responsible for evaluating the application shall grant or deny the application and shall notify the applicant, the Building Commissioner, and the Planning Director in writing of the decision.

(2) An application shall be deemed denied only by written notification to the applicant identifying each ordinal provision that was not satisfied and the reason that it was not satisfied.

(3) The application shall be deemed granted if not denied in accordance with this section.

(k) *Enforcement.* Whenever the Building Commissioner finds that a wall mural does not conform to the requirements of this section, exclusive of subsections 350.161(h)(1) and 350.161(h)(2), or that the structure of the wall mural or its attachment to the building is in a hazardous condition, he shall forward by certified mail to the person in control of the display a written notice of violation, stating the defects and requiring that person to correct or abate the defects within 30 days. The Commissioner shall otherwise follow the procedures set forth in Chapter 3103.

Section 350.162 When Valid Permit, Approval Is Presumed

Where for 12 consecutive years beginning at any time prior to January 1, 2006 a sign with a face of at least 300 square feet has remained at the same location continuously with no change in height, setback, number of panels, size, or dimensions, other than changes allowed by division (1) of Section 350.10, it shall be conclusively presumed for purposes of Section 350.18 of this Zoning Code and Section 3113.04 of the Building Code that the sign was erected initially pursuant

to valid permits, certificates, and all other approvals required by the City at the time of erection.

Section 6. That Clear Channel Outdoor, Inc., formerly known as Eller Media Company ("Clear Channel"), and the City dispute a claim for approximately \$688,276 asserted by Clear Channel as the prevailing party denominated as Eller Media Company in the lawsuit of Eller Media Company v. City of Cleveland, Case No. 1:99 CV 276, United States District Court for the Northern District of Ohio, and Case No. 01-3946, United States Court of Appeals for the Sixth Circuit, for reimbursement of all attorneys' fees, costs, and disbursements incurred by the plaintiff in pursuing in the United States District Court and in defending the appeal by the City in the United States Court of Appeals (collectively, "the advertising ordinance case"). The City, acting through its Director of Law, and Clear Channel have entered into a settlement agreement to compromise Clear Channel's claim. In accordance with paragraphs 9 and 10 of the settlement agreement between the City and Clear Channel Outdoor, Inc.:

Beginning on the date that this legislation becomes effective and for 12 months afterward, the City must give priority to the first six applications for permits, certificates, or other approvals Clear Channel files for the erection of wall murals, regardless of whether there are other applications pending by other applicants. During that 12-month period, the City will not grant any application by Clear Channel or any other applicant within 120 days after Clear Channel or any other applicant has filed an application with the City. To "give priority" means to treat each of the first six applications filed by Clear Channel as though it had been filed before all other applications filed by all other applicants, and to grant or deny each of the first six applications filed by Clear Channel before granting or denying any other application, regardless of the actual date of each application, and regardless of whether the 120-day waiting period described in this paragraph has expired.

If the City denies a Clear Channel application within the 12 month period, the City must extend the initial 12-month period by another 12 months. During the 12-month extension, the City must give priority to as many additional applications by Clear Channel as were denied during the first 12-month period. Also during this extension, the City will not grant an application by Clear Channel or any other applicant within 120 days after the application is filed with the City. Clear Channel's priority status ends automatically once the City has issued six permits to Clear Channel for wall murals.

If Clear Channel obtains all permits, certificates and other approvals required by law to erect six wall murals in the Central Business District, Clear Channel will devote one wall mural exclusively to display of noncommercial public art for, at least, eight consecutive years in consultation with and with the approval of the City of Cleveland.

Clear Channel will use its best efforts to secure state-of-the-art media for use on the wall murals within the Central Business District to cover walls that otherwise are flat, windowless, unornamented sides of buildings.

No application for a permit to erect a wall mural may be accepted by the Building Commissioner for filing until after the provisions of this Ordinance become effective.

Section 7. That notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Port Control is authorized to enter into a Lease By Way of Concession with Clear Channel Outdoor, Inc. to erect a billboard. The Director of Law shall prepare the Lease By Way of Concession and shall contain any additional provisions as the director determines to be necessary to protect and benefit the public interest.

Section 8. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed November 27, 2006.
Effective January 6, 2007.

Ord. No. 1439-06.

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

An emergency ordinance authorizing the Director of Port Control to enter into a Lease Agreement with Business Aircraft Center for office space at Cleveland Burke Lakefront Airport, for the Department of Port Control, for the period of 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 Port Control is authorized to enter into a Lease Agreement ("Lease") with Business Aircraft Center ("Lessee") for use and occupancy of approximately 720 square feet of office space including one holding room and one side office located in Room 149 of the terminal building at Cleveland Burke Lakefront Airport ("Leased Premises"). The Leased Premises shall be used as an aircraft charter service facility and to provide related services to serve the air traveling public and patrons at Burke Lakefront Airport. The term of the Lease shall be for a two year period commencing on the effective date thereof. For use of the Leased Premises, Lessee shall pay the City an annual rate as determined by an appraisal, but in no event shall the annual rate be less than Nine Thousand Dollars (\$9,000.00) which is equal to \$12.50 per square foot. Such rent shall be paid in monthly installments of \$750.00 due on the first day of each month during the term of the Lease.

Section 2. The Lease authorized by this ordinance 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1721-06.

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

An emergency ordinance to amend the title and Sections 2 and 3 of Ordinance No. 991-04, passed June 7, 2004, relating to a Concession Agreement with Airport Marketing Income, LLC for special events promotion, marketing and advertising.

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

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

Section 1. That the title and Sections 2 and 3 of Ordinance No. 991-04, passed June 7, 2004, are amended to read as follows:

An emergency ordinance authorizing the Director of Port Control to enter into a concession Agreement with Airport Marketing Income, LLC for special events' promotion, marketing, and advertising for the Department of Port Control, for a period of two years.

Section 2. That the agreement shall provide that the City will receive between sixty percent (60%) to eighty percent (80%) of the gross marketing and promotional revenues and Airport Marketing Income will be paid twenty percent (20%) to forty percent (40%) of the gross marketing and promotional revenues when no third party agency is involved. The City will receive between fifty-one percent (51%) and sixty-eight percent (68%) of gross marketing and promotional revenues; Airport Marketing Income will receive between seventeen percent (17%) and thirty-four percent (34%) of gross marketing and promotional revenues; and fifteen percent (15%) of gross marketing and promotional revenues will be paid to a third party advertising firm as an agency commission when a third party agency is involved. The specific split of gross marketing and promotional revenues shall be established for an individual project based on agreement between the Director of Port Control and Airport Marketing Income.

Section 3. That the term of the Agreement shall be for two years, commencing on the Agreement's effective date. The Agreement shall be cancelable on the director's thirty-day written notice. The director will report at the end of each calendar year to the Clerk of Council and the Chair of the Aviation and Transportation Committee regarding initiatives conducted under the Agreement.

Section 2. That the existing title and Sections 2 and 3 of Ordinance No. 991-04, passed June 7, 2004, are repealed.

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

Passed November 27, 2006.
Effective December 1, 2006.

Ord. No. 1722-06.

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

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from United States Department of Justice, COPS Office, for the COPS Interoperable Communications Technology Program; authorizing the purchase by one or more requirement contracts of materials, equipment, supplies, and services needed to implement the grant; and authorizing the Director to employ one or more professional consultants to implement the grant.

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

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

Section 1. That the Director of Public Safety is authorized to apply for and accept a grant in the amount of \$6,000,000, from the United States Department of Justice, COPS Office, to conduct the COPS Interoperable Communications Technology Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the application packet for the grant contained in the file described below.

Section 2. That the application packet for the grant, File No. 1722-06-A, made a part of this ordinance as if fully rewritten, including the obligation of the City of Cleveland to provide cash matching funds in the sum of \$2,000,000 from Fund No. 11 SF 006, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

Section 4. That the Director of Public Safety is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements during the grant period of the necessary items of materials, equipment, supplies, and services needed to implement the grant as described in the file, to be purchased by the Commissioner of Purchases and

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

Section 6. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 7. That the Director of Public Safety is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to implement the grant as described in the file.

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

Section 8. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Safety may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 9. That the cost of contract or contracts authorized shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance and the cash match.

Section 10. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed November 27, 2006.
Effective December 1, 2006.

Ord. No. 1754-06.
By Council Members Kelley and Sweeney (by departmental request).
An emergency ordinance to amend Section 4 of Ordinance No. 8-05, passed January 31, 2005, relating to professional services for marketing and advertising services, materials and equipment necessary to promote the Cleveland Hopkins International and Burke Lakefront Airports.

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 4 of Ordinance No. 8-05, passed January 31, 2005, is amended to read as follows:

Section 4. That the costs of the contract or contracts authorized by this ordinance shall be paid from Fund Nos. 60 SF 001, 60 SF 104, 60 SF 105, 60 SF 106 and any PFCs or bonds issued for this purpose and shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 129204)

Section 2. That existing Section 4 of Ordinance No. 8-05, passed January 31, 2005, 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1863-06.
By Council Members Britt and Sweeney (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2007 Cardiovascular Health Program.

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

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

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$69,895, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2007 Cardiovascular Health Program, for the purposes in the summary and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the

funds are appropriated for the purposes set forth in summary and budget application for the grant.

Section 2. That the summary and budget application for the grant, File No. 1863-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

Section 4. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1864-06.
By Council Members Britt and Sweeney (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2007 Immunization Action Plan Program.

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

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

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$135,209, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2007 Immunization Action Plan Program, for the purposes in the summary and budget and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes in the summary and budget for the grant.

Section 2. That the summary for the grant, File No. 1864-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

Section 3. That the Director of Public Health shall have the author-

ity to extend the term of the grant during the grant term.

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

Passed November 27, 2006.
Effective December 1, 2006.

Ord. No. 1865-06.

**By Council Members Britt and Sweeney (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from Cuyahoga County Solid Waste District for the 2007 Solid Waste Disposal Program.**

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

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

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$92,314.00, and any other funds that may become available during the grant term from Cuyahoga County Solid Waste District to conduct the 2007 Solid Waste Disposal Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the Summary for the grant contained in the file described below.

Section 2. That the Summary for the grant, File No. 1865-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

Section 4. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1866-06.

**By Council Members Britt and Sweeney (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2007 Tobacco Control Program.**

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

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

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$45,000, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2007 Tobacco Control Program, for the purposes in the summary and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No. 1866-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

Section 4. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1867-06.

**By Council Members Britt and Sweeney (by departmental request).
An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Ohio Department of Health for the 2007 Federal AIDS Prevention Program; and to enter into contract with various agencies to implement the program.**

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

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

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$817,656, and any other funds as they become available during the grant term, from the Ohio Department of Health, to conduct the 2007 Federal AIDS Prevention Program, for the purposes in the summary and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No. 1867-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

<u>Agency</u>	<u>Amount</u>
AIDS Taskforce of Greater Cleveland	\$157,170.00
Antioch Baptist Church - AGAPE Program	62,400.00
Cleveland Treatment Center	132,000.00
Free Clinic of Greater Cleveland	45,600.00
HUMADAOP	45,300.00
Northeast Ohio Neighborhood Health Services	18,020.00
Planned Parenthood	35,510.00
Recovery Resources	54,000.00
Salvation Army	40,000.00
Regional Advisory Group Support	10,000.00

In addition, the sum of not more than \$103,160.00 is appropriated to the Department of Public Health for administrative costs of implementing this program and the sum of not more than \$114,496.00 is appropriated for the operation of the Disease Intervention Specialist Services Program conducted by the Department.

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

Section 5. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 6. That 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1868-06.

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

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from Research Triangle Institute, Inc. for the Research Triangle Program; authorizing the director to enter into one or more requirement contracts of materials, equipment, supplies, and services needed to implement the grant; 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 Public Health is authorized to apply for and accept a grant in the approximate amount of \$26,970.49, and any other funds that may become available during the grant term from Research Triangle Institute, Inc. to conduct the Research Triangle Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the summary for the grant contained in the file described below.

Section 2. That the summary for the grant, File No. 1868-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

Section 4. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 5. That the Director of Public Health is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements during the grant term of the necessary items of materials, equipment, supplies, and services needed to implement the grant as described in the file, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Health. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate

contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

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

Section 7. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Health may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 8. That the Director of Public Health is authorized to enter into one or more contracts with agencies, entities, or individuals to implement the grant as described in the file.

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

Passed November 27, 2006.
Effective December 1, 2006.

Ord. No. 1869-06.

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

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the 2007 Ohio Department of Health for the STD Control Program.

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

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

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$127,923, and any other funds as they become available during the grant term, from the Ohio Department of Health, to conduct the 2007 STD Control Program, for the purposes in the summary and budget and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the

funds are appropriated for the purposes in the summary and budget for the grant.

Section 2. That the summary for the grant, File No. 1869-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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

Section 4. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1870-06.

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

An emergency ordinance to amend the title of Ordinance No. 941-06, passed June 12, 2006; to supplement the ordinance by adding new Sections 8, 9, and 10; and to renumber existing Sections 8, 9, 10, and 11 to new Sections 11, 12, 13, and 14, relating to a grant from the Ohio Environmental Protection Agency for the operation of the Division of Air Quality.

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

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

Section 1. That the title of Ordinance No. 941-06, passed June 12, 2006, is amended to read as follows:

An emergency ordinance authorizing the Director of Public Health to accept a grant from the Ohio Environmental Protection Agency for financial assistance for the operation of the Division of Air Quality; authorizing the director to enter into one or more purchase contracts for various services, equipment and supplies; authorizing the director to enter into one or more contracts with various agencies or entities necessary to operate the Division of Air Quality; determining the method of making the public improvement of constructing, rehabilitating, renovating, replacing, or otherwise improving air monitoring sites and other similar structures on city-owned and city-leased property; authorizing the director to enter into one or more public improvement contracts to construct the improvement; and authorizing the director

to employ one or more professional consultants necessary to design the improvement.

Section 2. That the existing title of Ordinance No. 941-06, passed June 12, 2006, is repealed.

Section 3. That Ordinance No. 941-06, passed June 12, 2006 is supplemented by adding new Sections 8, 9, and 10, to read as follows:

Section 8. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of constructing, rehabilitating, renovating, replacing, or otherwise improving air monitoring sites and other similar structures on city-owned and city-leased property (the "Improvement"), for the Division of Air Quality, Department of Public Health, by one or more contracts duly let to the lowest responsible bidder or bidders after competitive bidding for a gross price for the Improvement.

Section 9. That the Director of Public Health is authorized to enter into one or more contracts for the making of the Improvement with the lowest responsible bidder or bidders after competitive bidding for a gross price for the Improvement, provided, however, that each separate trade and each distinct component part of the Improvement may be treated as a separate improvement, and each, or any combination, of the trades or components may be the subject of a separate contract for a gross price. On request of the Director the contractor shall furnish a correct schedule of unit prices, including profit and overhead, for all items constituting units of the Improvement.

Section 10. That the Director of Public Health 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 design the Improvement.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Health from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Health 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 Health, and certified by the Director of Finance.

Section 4. That existing Sections 8, 9, 10, and 11 of Ordinance No. 941-06, passed June 12, 2006, are renumbered to new "Section 11", "Section 12", "Section 13", and "Section 14".

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 November 27, 2006.
Effective December 1, 2006.

Ord. No. 1953-06
By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more contracts with Alltel Communications for professional services necessary to provide data services and maintenance on mobile computer interfaces for a period of one year.

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

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

Section 1. That the Director of Finance is authorized to enter into one or more contracts with Alltel Communications for professional services necessary to provide data services and maintenance on mobile computer interfaces for a period of one year, in the total sum of \$479,904, for City departments. The contract or contracts shall be paid from Fund No. 70-151102-631000, Request No. 142096.

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

Passed November 27, 2006.
Effective December 1, 2006.

Ord. No. 2022-06
By Council Member Reed.
An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to the Friends of Mt. Pleasant to stretch banners and lights on CPP utility poles along Luke Easter Park; Kinsman Road, between East 93rd & East 154th; and at Kingsbury, from December 21, 2006 to January 20, 2007.

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 the provision of Section 623.13 of the Codified Ordinances, of Cleveland, Ohio, 1976, the Director of the Department of Public Service is hereby authorized and directed to issue a permit to the Friends of Mt. Pleasant to install, maintain and remove banners and lights on CPP utility poles along Luke Easter Park; Kinsman Road, between East 93rd & East 154th; and at Kingsbury, inclusive from December 21, 2006 to January 20, 2007. Said banner shall be approved by the Director of Public Service, in consultation with the Director of Public Safety, as to type, method of affixing and location so as not to interfere with any sign erected and maintained under the requirements of law or ordinance. The permission of the owner of any pole from which a ban-

ner will be hung must be obtained prior to issuance of the permit. No commercial advertising shall be printed or permitted on said banner and said banner shall be removed promptly upon the expiration of said permit.

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 November 27, 2006.
Effective December 1, 2006.

COUNCIL COMMITTEE MEETINGS

Thursday, November 30, 2006
1:30 p.m.

Public Utilities Committee: Present: Zone, Chair; Reed, Vice Chair; Cleveland, Polensek, Cummins, Dolan, Westbrook, Santiago. *Authorized Absence:* Kelley.

Monday, December 4, 2006
9:30 a.m.

Joint — Health and Human Services Committee and Public Safety Committee: Present in Health: Britt, Chair; Cleveland, Vice Chair; Kelley, Santiago, Conwell, Westbrook, Reed. Present in Safety: Conwell, Chair; Brady, Vice Chair; Britt, Coats, Kelley, Cummins, Turner, Santiago. *Authorized Absence:* Polensek.

11:00 a.m.

Aviation and Transportation Committee: Present: Kelley, Chair; Westbrook, Vice Chair; Brancatelli, Dolan, Cleveland, Britt, Turner.

1:30 p.m.

Joint — Community and Economic Development Committee and Finance Committee: Present in CDED: Pierce Scott, Chair; Brancatelli, Vice Chair; Cimperman, Cummins, Coats, Westbrook, Brady, Zone, Lewis.

Present in Finance: Sweeney, Chair; Cimperman, Vice Chair; Brady, Conwell, Britt, Zone, Westbrook, Coats, Pierce Scott, Brancatelli, White.

2:00 p.m.

Finance Committee: Present: Sweeney, Chair; Cimperman, Vice Chair; Brady, Conwell, Zone, Westbrook, Coats, White, Pierce Scott, Brancatelli. *Authorized Absence:* Britt.

Tuesday, December 5, 2006
9:30 a.m.

Community and Economic Development Committee: Present: Brancatelli, Vice Chair; Cummins, Brady, Westbrook, Lewis, Cimperman. *Authorized Absence:* Pierce Scott, Chair; Coats, Zone.

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