

# The City Record

Official Publication of the Council of the City of Cleveland



February the Twenty-Third, Two Thousand and Eleven

**Frank G. Jackson**  
Mayor

**Martin J. Sweeney**  
President of Council

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

**Ward Name**

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

The City Record is available online at  
[www.clevelandcitycouncil.org](http://www.clevelandcitycouncil.org)

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# DIRECTORY OF CITY OFFICIALS

## CITY COUNCIL – LEGISLATIVE

President of Council – Martin J. Sweeney

Ward Name Residence

- 1 Terrell H. Pruitt 3877 East 189th Street 44122
- 2 Zachary Reed 3734 East 149th Street 44120
- 3 Joe Cimperman P.O. Box 91688 44101
- 4 Kenneth L. Johnson 2948 Hampton Road 44120
- 5 Phyllis E. Cleveland 2369 East 36th Street 44105
- 6 Mamie J. Mitchell 12701 Shaker Boulevard, #712 44120
- 7 TJ Dow 7715 Decker Avenue 44103
- 8 Jeffrey D. Johnson 9024 Parkgate Avenue 44108
- 9 Kevin Conwell 10647 Ashbury Avenue 44106
- 10 Eugene R. Miller 13615 Kelso Avenue 44110
- 11 Michael D. Polensek 17855 Brian Avenue 44119
- 12 Anthony Brancatelli 6924 Ottawa Road 44105
- 13 Kevin J. Kelley 5904 Parkridge Avenue 44144
- 14 Brian J. Cummins 3104 Mapledale Avenue 44109
- 15 Matthew Zone 1228 West 69th Street 44102
- 16 Jay Westbrook 1278 West 103rd Street 44102
- 17 Dona Brady 1272 West Boulevard 44102
- 18 Martin J. Sweeney 3632 West 133rd Street 44111
- 19 Martin J. Keane 15907 Colletta Lane 44111

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

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

Chris Warren, Executive Assistant to the Mayor, Chief of Regional Development

Monyka S. Price, Executive Assistant to the Mayor, Chief of Education

Maureen Harper, Executive Assistant to the Mayor, Chief of Communications

Andrea V. Taylor, Executive Assistant to the Mayor, Press Secretary

Andrew Watterson, Executive Assistant to the Mayor, Chief of Sustainability

Natoya J. Walker Minor, Chief of Public Affairs – Interim Director of Equal Opportunity.

**OFFICE OF CAPITAL PROJECTS** – Jonmarie Wasik, Director

**DIVISIONS:**

Architecture and Site Development – Robert Vilkas, Chief Architect, Manager

Engineering and Construction – \_\_\_\_\_, Manager

Real Estate – \_\_\_\_\_, Commissioner

**DEPT. OF LAW** – Robert J. Triozzi, Director, Barbara A. Langhenry, Chief Counsel,

Richard F. Horvath, Chief Corporate Counsel, Thomas J. Kaiser, Chief Trial Counsel,

Room 106; Michael Ruffing, 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 – \_\_\_\_\_, Treasurer, Room 115

Financial Reporting and Control – James Gentile, Controller, Room 18

Information Technology and Services – Douglas Divish, Commissioner, 205 W. St. Clair

Avenue

Purchases and Supplies – James E. Hardy, Commissioner, Room 128

Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue

Taxation – Nassim Lynch, Tax Administrator, 205 W. St. Clair Avenue

**DEPT. OF PUBLIC UTILITIES** – Barry A. Withers, Director, 1201 Lakeside Avenue

**DIVISIONS:**

Cleveland Public Power – Ivan Henderson, Commissioner

Street Lighting Bureau – \_\_\_\_\_, Acting Chief

Utilities Fiscal Control – Dennis Nichols, Commissioner

Water – \_\_\_\_\_, Commissioner

Water Pollution Control – Ollie Shaw, Commissioner

**DEPT. OF PORT CONTROL** – Ricky D. Smith, Director, Cleveland Hopkins

International Airport, 5300 Riverside Drive

**DIVISIONS:**

Burke Lakefront Airport – Khalid Bahhur, Commissioner

Cleveland Hopkins International Airport – Fred Szabo, Commissioner

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

**OFFICES:**

Administration – John Laird, Manager

Special Events and Marketing – Tangee Johnson, Manager

**DIVISIONS:**

Motor Vehicle Maintenance – Daniel A. Novak, Commissioner

Park Maintenance and Properties – Richard L. Silva, Commissioner

Parking Facilities – Leigh Stevens, Commissioner

Property Management – Tom Nagle, Commissioner

Recreation – Kim Johnson, Commissioner

Streets – \_\_\_\_\_, Commissioner

Traffic Engineering – Robert Mavec, Commissioner

Waste Collection and Disposal – Ron Owens, Commissioner

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

Erievue Plaza

**DIVISIONS:**

Air Quality – Richard L. Nemeth, Commissioner

Environment – Willie Bess, Commissioner, Mural Building, 75 Erievue Plaza

Health – Karen K. Butler, Commissioner, Mural Building, 75 Erievue Plaza

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

**DIVISIONS:**

Dog Pound – John Baird, Chief Dog Warden, 2690 West 7th Street

Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.

Emergency Medical Service – Edward Eckart, Commissioner, 1708 South Pointe Drive

Fire – Paul A. Stubbs, Chief, 1645 Superior Avenue

Police – Michael C. McGrath, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street

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

**DIVISIONS:**

Administrative Services – Terrence Ross, Commissioner

Fair Housing and Consumer Affairs Office – \_\_\_\_\_, Manager

Neighborhood Development – \_\_\_\_\_, Commissioner

Neighborhood Services – Louise V. Jackson, 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** – \_\_\_\_\_, Director, Room 121

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

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

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

G. Jackson, Chairman Ex-Officio; Rev. Dr. Charles P. Lucas, Jr., Vice-Chairman, Council

Member Brian Cummins, Council Member Eugene R. Miller, Jeff Marks, (Board Lawyer),

Roosevelt E. Coats, Jenice Contreras, Kathryn Hall, Yasir Hamdallah, Evangeline

Hardaway, John O. Horton, Annie Key, Stephanie Morrison-Hrbek, Roland Muhammad,

Gia Hoa Ryan, Ted C. Wammes, Peter Whitt.

**CIVIL SERVICE COMMISSION** – Room 119, Robert Bennett, President; Michael L.

Nelson, Sr., Vice-President; Lucille Ambroz, Secretary; Members: Pastor Gregory Jordan,

Michael Fluckinger.

**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, Jan Huber, 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 Jonmarie Wasik, Law Director

Robert J. Triozzi; Council Member Eugene R. Miller.

**BOARD OF REVIEW** – (Municipal Income Tax) – Law Director Robert J. Triozzi; Utilities

Director Barry A. Withers; Council President Martin J. Sweeney.

**CITY PLANNING COMMISSION** – Room 501 – Robert N. Brown, Director; Anthony J.

Coyne, Chairman; David H. Bowen, Lillian Kuri, Lawrence A. Lumpkin, Gloria Jean

Pinkney, Norman Krumholz, Council Member Phyllis E. Cleveland.

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

Render, Genesis O. Brown.

**HOUSING ADVISORY BOARD** – Room 310 – Keith Brown, Terri Hamilton Brown, Vickie

Eaton-Johnson, Mike Foley, Eric Hodderson, Janet Loehr, Mark McDermott, Marcia Nolan,

David Perkowski, Joan Shaver Washington, Keith Sutton.

**CLEVELAND BOXING AND WRESTLING COMMISSION** – Robert Jones, Chairman;

Clint Martin, Mark Rivera.

**MORAL CLAIMS COMMISSION** – Law Director Robert J. Triozzi; Chairman; Finance

Director Sharon Dumas; Council President Martin J. Sweeney; Councilman Kevin

Kelley.

**POLICE REVIEW BOARD** – Thomas Jones, Board Chair Person; Vernon Collier, Vermel

Whalen, Nancy Cronin, Elvin Vauss.

**CLEVELAND LANDMARKS COMMISSION** – Room 519 – Jennifer Coleman, Chair;

Laura M. Bala, Council Member Anthony Brancatelli, Robert N. Brown, Thomas Coffey,

Allan Dreyer, William Mason, Michael Rastatter, Jr., John Torres, N. Kurt Wiebusch, Robert

Keiser, Secretary.

**AUDIT COMMITTEE** – Yvette M. Ittu, Chairman; Debra Janik, Bracy Lewis, Diane

Downing, Donna Sciarappa, Council President Martin J. Sweeney; Law Director Robert

J. Triozzi.

## CLEVELAND MUNICIPAL COURT

JUSTICE CENTER – 1200 ONTARIO STREET

JUDGE COURTROOM ASSIGNMENTS

Judge Courtroom

Presiding and Administrative Judge Ronald B. Adrine – Courtroom 15A

Judge Marilyn B. Cassidy – Courtroom 12B

Judge Michelle Denise Earley – Courtroom 12C

Judge Emanuella Groves – Courtroom 14B

Judge Anita Laster Mays – Courtroom 14C

Judge Lynn McLaughlin-Murray – Courtroom 12A

Judge Lauren C. Moore – Courtroom 14A

Judge Charles L. Patton, Jr. – Courtroom 13D

Judge Raymond L. Pianka (Housing Court Judge) – Courtroom 13B

Judge Michael John Ryan – Courtroom 13A

Judge Angela R. Stokes – Courtroom 15C

Judge Pauline H. Tarver – Courtroom 13C

Judge Joseph J. Zone – Courtroom 14D

Earle B. Turner – Clerk of Courts, Russell R. Brown III – Court Administrator, Paul J.

Mizerak – Bailiff, Jerome M. Krakowski – Chief Probation Officer, Gregory F. Clifford – Chief

Magistrate, Victor Perez – City Prosecutor

# The City Record

71 OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

Vol. 98

WEDNESDAY, FEBRUARY 23, 2011

No. 5072

## CITY COUNCIL

MONDAY, FEBRUARY 21, 2011

The City Record  
Published weekly by the City Clerk,  
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Address all communications to  
**PATRICIA J. BRITT**  
City Clerk, Clerk of Council  
216 City Hall

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

#### MONDAY — Alternating

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

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

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

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

#### MONDAY

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

#### TUESDAY

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

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

#### WEDNESDAY — Alternating

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

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

#### WEDNESDAY — Alternating

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

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

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

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

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

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

### OFFICIAL PROCEEDINGS CITY COUNCIL

NO MEETING

### THE CALENDAR

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

NONE

### BOARD OF CONTROL

February 16, 2011

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, February 16, 2011, at 10:48 a.m. with Director Triozzi presiding.

Present: Directors Triozzi, Withers, R. Smith, Cox, Acting Director Butler, Director Flask, Acting Directors Wilbur, Interim Director Walker-Minor, Director Nichols, Fumich and Rybka

Absent: Mayor Jackson and Director Dumas.

Others: James E. Hardy, Commissioner, Purchases and Supplies.

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

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

#### Resolution No. 54-11.

By Director Withers.  
Whereas, under the authority of Ordinance No. 1541-09, passed by the Council of the City of Cleveland on December 7, 2009, and Board of Control Resolutions No. 148-10, adopted April 21, 2010, the Director of Public Utilities, entered into City Contract No. CT-2002-PI2010\*28 with Terrace Construction Company, Inc. for the public improvement of cleaning and cement mortar lining of distribution mains in area 2010-B in the amount of \$2,989,421.05, for the Divi-

sion of Water, Department of Public Utilities; and

Whereas, by its January 31, 2011 letter, Terrace Construction Company, Inc. requested the City's approval for an additional subcontractor; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the employment of the following additional subcontractor by Terrace Construction Company, Inc. for the above-mentioned public improvement is approved:

Subcontractor	Work Percentage
Otis Maintenance Company	\$100,000.00 3.345%

Yeas: Directors Triozzi, Withers, R. Smith, Cox, Acting Director Butler, Director Flask, Acting Directors Wilbur, Interim Director Walker-Minor, Director Nichols, Fumich and Rybka

Nays: None.

Absent: Mayor Jackson and Director Dumas.

#### Resolution No. 55-11.

By Director Cox.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Apex Construction and Management Co Inc., for the public improvement of the Lorain Road Streets Facility Radiant Heating Replacement for the Department of Public Works, received on December 15, 2010, under the authority of Ordinance No. 1724-09, passed February 8, 2010, for a gross price for the improvement in the aggregate amount of \$57,890.00, for the Base Bid and Alternate 1, is affirmed and approved as the lowest responsible bid, and the Director of Public Works 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 Apex Construction and Management Co. Inc. is approved:

Subcontractor	CSB/MBE/FBE Amount Percentage
Best Electric	CSB/FBE \$ 8,090.00 13.989%
Imperial Mechanical, Inc.	CSB/FBE \$26,000.00 44.913%
Commerce Plumbing	\$ 8,815.00 0.00%

Yeas: Directors Triozzi, Withers, R. Smith, Cox, Acting Director Butler, Director Flask, Acting Directors

Wilbur, Interim Director Walker-Minor, Director Nichols, Fumich and Rybka

Nays: None.

Absent: Mayor Jackson and Director Dumas.

**Resolution No. 56-11.**

By Director Rush.

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

Whereas, Section 183.024, Codified Ordinances of Cleveland, Ohio, 1976, authorizes the Commissioner of Purchases and Supplies to acquire certain properties owned by the Department of Housing and Urban Development (HUD) and Fannie Mae, each for a price determined as Fair Market Value, as part of the Land Reutilization Program; and

Whereas, under the authority of Section 183.024, the City has acquired Permanent Parcel No. 117-06-015, located at 1709 Wayside Road from HUD; and

Whereas, Barbara S. Shuler and Manasha Alvarado (mother & daughter) have proposed to the City to purchase the property for rehabilitation and/or redevelopment; and

Whereas, Section 183.024 authorizes the Commissioner of Purchases and Supplies, when directed by the Director of Community Development, and with the prior written consent of the Council member(s) in whose ward the property acquired from HUD or Fannie Mae to be sold is located, to convey the property to purchasers for the public purpose of rehabilitation and/or resale for consideration established by the Board of Control at not less than fair market value; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Section 183.024, Codified Ordinances of Cleveland, Ohio, 1976, the consideration for the sale of Permanent Parcel No. 117-06-015 to Barbara J. Shuler and Manasha Alvarado is established as \$375,000, which amount is determined to be not less than fair market value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Yeas: Directors Triozzi, Withers, R. Smith, Cox, Acting Director Butler, Director Flask, Acting Directors Wilbur, Interim Director Walker-Minor, Director Nichols, Fumich and Rybka

Nays: None.

Absent: Mayor Jackson and Director Dumas.

JEFFREY B. MARKS,  
Secretary

**CIVIL SERVICE NOTICES**

**General Information**

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

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

**EXAMINATION RESULTS:** Each applicant whether passing or failing will be notified of the results of the examination as soon as the commission has graded the papers. Thereafter, eligible lists will be established which will consist of the names of those candidates who have been successful in all parts of the examination.

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

ROBERT BENNETT,  
President

**SCHEDULE OF THE BOARD OF ZONING APPEALS**

**MONDAY, MARCH 7, 2011**

**9:30 A.M.**

**Calendar No. 11-14:** 1549 East 84th Street (Ward 7)

Susan Whatley, owner, appeals to erect 32 linear feet of 4 foot high chain link fence along the front setback line of a 37' x 102' lot located in B1 Two-Family and D2 Multi-Family Districts, where ornamental fence is required and the Board of Zoning Appeals may, however, permit a chain link fence if the Board determines that such fence is common in the immediate vicinity of the subject property, as stated in Section 358.04(c)(1) of the Cleveland Codified Ordinances.

**Calendar No. 11-15:** 4243 Fulton Road (Ward 13)

Memphis Fulton Association, owner, and Lori Groff, lessee, appeal under the authority of Section 76.6 of the Charter of the City of Cleveland and Section 329.02(d) of the Cleveland Codified Ordinances from a Notice of Violation issued by the Cleveland Department of Building and Housing on January 19, 2011 and the determination that the Ohio Internet Café LLC located at 4243 Fulton Road is in violation of Section 327.02(c) of the Cleveland Codified Ordinances.

**Calendar No. 11-17:** 1611 Clark Avenue (Ward 14)

Daniel Seguin, owner, appeals to change use from two dwelling units to a three family dwelling an existing residence located on a 41' x 140' lot in a B1 Two-Family District; contrary to Section 337.03 and first allowed in a Multi-Family District; and pursuant to Section 355.04, a maximum gross floor area of 7,200 square feet is required and 5,600 square feet is provided; interior side yards equal 2.10 feet contrary to 8 feet and the provisions in Section 357.09 of the Cleveland Codified Ordinances

**Calendar No. 11-22:** 3190 West 44th Street (Ward 14)

John C. Gilliam, owner, appeals to install a wheelchair ramp 44 linear feet on a 35' x 132' lot in a B1 Two-Family District and the proposed ramp projects into the front yard setback and it is not a permitted yard encroachment according to Section 357.13 of the Cleveland Codified Ordinances.

Secretary

**REPORT OF THE BOARD OF ZONING APPEALS**

**TUESDAY, FEBRUARY 22, 2011**

At the meeting of the Board of Zoning Appeals on Tuesday, February 22, 2011, the following appeals were heard by the Board.

The following appeals were **Approved:**

**Calendar No. 11-7:** Tow Truck Drivers License  
Douglas Lee Skaggs appealed from the decision of the Commissioner of Assessments and Licenses to deny an application for a Tow Truck Drivers License.

**Calendar No. 10-227:** 820 College Avenue

Tom Leneghan appealed to add live entertainment to an existing bar/tavern to remove parking spaces and convert to outdoor patio use in a General Retail Business District; subject to conditions.

The following appeal was **Denied:**

**Calendar No. 11-5:** Cleveland Police Department Citation 1935 Randall Road

Jeremy P. Ols appealed from Citation No. A 627184 issued by the Cleveland Police Department on October 10, 2010.

The following appeals were **Withdrawn:**

**Calendar No. 10-262:** Appeal Zoning Code Interpretation  
1301 East 9th Street

Dave Clark, owner's representative of the premises at 1301 East 9th Street, Cleveland, Ohio 44114, and Dan Miller, tenant, by and through their legal counsel appealed from the an administrative zoning interpretation dated November 24, 2010.

**Calendar No. 11-9:** 1301 East 9th Street  
Erievue Land Company, LLC, owner, and Suede Nights, LLC, tenant, appealed to establish use as a nightclub/bar with entertainment and dancing in a Semi-Industry District.

The following appeals were **Dismissed:**

None.

The following appeal was **Postponed:**

**Calendar No. 11-10:** 3662 East 108th Street postponed from March 28 to March 14, 2011.

The following appeals heard by the Board on February 14, 2011 were adopted and approved on February 22, 2011.

The following appeals were **Approved:**

**Calendar No. 10-265:** 3301 Monroe Avenue

Brandon Partners, owner, and Scrap Processors of Ohio LLC, tenant, appealed to establish use as recycling and storage of auto parts and components materials in a General Industry District; subject to conditions.

**Calendar No. 10-266:** 13933 Lakewood Heights Boulevard  
Campbell Properties Incorporated appealed for an addition to an existing gas station/convenience store and a new canopy in a Local Retail Business District.

**Calendar No. 10-269:** 2516 East 40th Street  
Mt. Herman Baptist church appealed to erect a double faced digital, message ground sign in a Local Retail Business District.

**Calendar No. 11-1:** 10435 Clifton Boulevard  
Ronald Marthaller appealed for a change of use from a store in a mixed use building to a coffee shop located in a One-Family District.

Secretary

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

Re: Report of the Meeting of February 16, 2011

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-245-10.**  
RE: Appeal of Derrick Carr, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property located on the premises known as 12414 Chesterfield Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated June 2, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
Docket A-245-10 has been WITHDRAWN at the request of the Appellant.

\* \* \*

**Docket A-252-10.**  
RE: Appeal of Branden Powell, Owner of the One Dwelling Unit Single-Family Residence Two & One/half Story Frame Property located on the premises known as 3302 East 121st Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated March 24, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which to obtain all permits and six (6) months in which to complete abatement of all violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.  
Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

**Docket A-255-10.**  
RE: Appeal of Wilson A. Leece II, Owner of the MXD Mixed Uses - Multiple Uses In One Building Two & One/half Story Masonry Walls/Wood Floors Property located on the premises known as 9840 Lorain Avenue from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated May 28, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
BE IT RESOLVED, a motion is in order at this time to find that the Violation Notice was properly issued, noting the condition as described by the inspector and the photographs presented to the Board, the appeal is DENIED and 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-256-10.**  
RE: Appeal of Barbara Rosser, Owner of Two Dwelling Units Two-Family Residence Two & One/half Story Wood Frame/Siding/Masonry Veneer Property located on the premises known as 1139 East 145th Street from a 30 DAY CONDEMNATION ORDER — MS, dated April 17, 2008 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
BE IT RESOLVED, a motion is in order at this time to find that the Violation Notice was properly issued, and to DENY the appeal request based on photographic evidence and testimony from the Building Department and lack of attendance by the Appellant. 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. Saab.  
Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

\* \* \*

**Docket A-260-10.**  
RE: Appeal of Christian Flores, Owner of the Two Dwelling Units Two-Family Residence Two Story Frame Property located on the premises known as 3179 West 111th Street from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated May 12, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
Docket A-260-10 has been WITHDRAWN at the request of the Appellant.

\* \* \*

**Docket A-261-10.**  
RE: Appeal of Rouqukria M. Roddy, Owner of the One Dwelling Units Single-Family Residence Two & One/half Story Frame Property located on the premises known as 3607 Archwood Street from a NOTICE OF VIOLATION — EXTE-

RIOR MAINTENANCE, dated March 23, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
Docket A-261-10 have been POSTPONED; to be rescheduled for March 02, 2011.

\* \* \*

**Docket A-262-10.**  
RE: Appeal of Raymond P. Marciano, Owner of the One Dwelling Unit Single-Family Residence Two Story Masonry Property located on the premises known as 2261 Chestnut Hills Drive from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated March 31, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
BE IT RESOLVED, a motion is in order at this time to find that the pressure white washing as shown in the photographs is acceptable; and to grant the Appellant six (6) months in which to complete abatement of the violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.  
Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

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**Docket A-263-10.**  
RE: Appeal of Leonard M. Reinartz, Owner of the One Dwelling Unit Single-Family Residence Two & One/half Story Frame Property located on the premises known as 13629 Terminal Avenue from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated March 22, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
Docket A-263-10 has been WITHDRAWN at the request of the Appellant.

\* \* \*

**Docket A-264-10.**  
RE: Appeal of Reginald Jolly, Owner of the One Dwelling Unit Single-Family Residence One & One/half Story Frame Property located on the premises known as 3039 East 121st Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated March 23, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).  
BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which to obtain all permits and three (3) months in which to complete abatement of the violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Gallagher.  
Yeas: Messrs. Denk, Saunders, Gallagher, Saab, Bradley. Nays: None.

**Docket A-265-10.**

RE: Appeal of Benson & Lisa Dunlap, Owners of the One Dwelling Unit Single-Family Residence Two & One/half Story Frame Property located on the premises known as 2099 West 105th Street from CONDEMNATION ORDER — MAIN STRUCTURE, dated April 30, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which to obtain permits and six (6) months in which to abate the violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

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

\* \* \*

**Docket A-266-10.**

RE: Appeal of Christopher C. Jones, Owner of the One Family Two & One/half Story Frame Property located on the premises known as 10732 Gooding Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated June 2, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-266-10 has been WITHDRAWN at the request of the Appellant.

\* \* \*

**Docket A-267-10.**

RE: Appeal of Brian Robinson, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property located on the premises known as 2281 East 87th Street from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated June 28, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to permit the Appellant to reactivate the existing permits, and require the additional permits be obtained within thirty (30) days and the violations be abated within six (6) months. 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. Saabs and seconded by Mr. Bradley.

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

\* \* \*

**Docket A-268-10.**

RE: Appeal of Carmeka Robinson-Ashford, Owner of the Three-Family Residence Two Story Masonry Walls/Wood Floors Property located on the premises known as 2228 East 83rd Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated June 07, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building

Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant six (6) months in which to complete abatement of the violations, noting that inspections can be made and the inspector is permitted to allow partial occupancy of the premises, if the units are suitable. 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-271-10.**

RE: Appeal of Cap Management, LLC, Owner of the One Dwelling Unit Single-Family Residence Two & One/half Story Frame Property located on the premises known as 3340 East 126th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated March 23, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant eight (8) months in which to complete abatement of all violations, noting satisfactory progress to this date. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Bradley.

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

\* \* \*

**Docket A-275-10.**

RE: Appeal of Jennifer Franklin, Owner of the One Dwelling Unit Single-Family Residence Two & One/half Story Frame Property and One Story Garage - Detached; Wood Frame located on the premises known as 2292 East 89th Street from a CONDEMNATION ORDER — MAIN STRUCTURE & GARAGE, dated May 25, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-275-10 have been POSTPONED; to be rescheduled for March 2, 2011.

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**Docket A-276-10.**

RE: Appeal of Clover Construction C/O Neil T. Clough, Owner of the Property located on the premises known as 2070 West 65th Street from a FIRE DAMAGE, dated June 14, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-276-10 have been POSTPONED; to be rescheduled for March 02, 2011.

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**Docket A-277-10.**

RE: Appeal of Vonette Wesson, Owner of the One Dwelling Unit Single-Family Residence Two Story

Frame Property located on the premises known as 681 East 109th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated March 26, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant thirty (30) days in which to obtain all required permits and six (6) months in which to abate all violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.

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

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**Docket A-278-10.**

RE: Appeal of Annette Campbell, Owner of the One Dwelling Units Single-Family Residence Two Story Frame Property located on the premises known as 1391 East 187th Street from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated June 23, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant six (6) months in which to complete abatement of the violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Saab.

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

\* \* \*

**Docket A-279-10.**

RE: Appeal of Cleveland RPM Management, LLC, Owner of the Two Dwelling Units Two-Family Residence Two & One/half Story Frame Property located on the premises known as 11403 Fairport Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated April 15, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-279-10 have been POSTPONED; to be rescheduled for March 02, 2011.

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**Docket A-472-10.**

RE: Appeal of John Brewer, Owner of the One Dwelling Unit Single-Family Residence Two & One/half Story Frame Property located on the premises known as 7114 Elton Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated March 22, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time, based upon the evidence presented, which includes

interior photographs that conflict with some of the comments in the violation notice; but that the violation notice was properly issued because the utilities were not operable, therefore making it not habitable; the testimony also finds that the Appellant is not the present owner based upon the testimony presented by the Appellant and subject to presentation of the proper evidence to the fact that someone else owns the building, the property is found to be at this time not habitable but the Appellant is not obliged to repair it if he is no longer the titled owner. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Gallagher.

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

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**Docket A-15-11.**

RE: Appeal of Taryll T. Luster C/O Academy Construction Co., Owner/Contractor of the Property located on the premises known as 17222 St. Clair Avenue from a NOTICE OF VIOLATION — HVAC, dated November 10, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to find that the Violation Notice was properly issued, the appeal request is DENIED and the property at 17222 St. Clair Avenue is REMANDED to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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

\* \* \*

**EXTENSION OF TIME:**

**Docket A-283-09** - Christine Harper C/O Brandon Harper - 1405 East 115th Street:

A motion is in order at this time to grant the Appellant an additional four (4) months in which to complete abatement of the violations, and additional time beyond that with good progress. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Saunders.

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

\* \* \*

**APPROVAL OF RESOLUTIONS:**

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

- A-237-10 — Creditus Lending, L.P.
- A-239-10 — Ohio Redevelopment Group
- A-240-10 — Ohio Redevelopment Group

- A-241-10 — Doris Pollard Organ
- A-242-10 — R.E.I. Enterprises
- A-246-10 — Kimyai J. Washington
- A-257-10 — Quest Property Management
- A-258-10 — Quest Property Management
- A-319-10 — Pope Construction
- A-325-10 — Joyce Boyd
- A-331-10 — Joyce Boyd
- A-429-10 — Wael Salem
- A-5-11 — State of Ohio
- A-13-11 — Mark Tisdale

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

\* \* \*

**APPROVAL OF MINUTES:**

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

February 2, 2011

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

\* \* \*

JOSEPH F. DENK  
Chairman

**PUBLIC NOTICE**

**REQUEST FOR PROPOSALS  
CLEVELAND CITY COUNCIL**

Request for Proposals for professional services to provide a software solution and services necessary to update, customize, and implement the City Council Website, and to create a City Council Intranet site. Proposals due by February 25, 2011. The City Council website must provide clear and concise information for citizens of Cleveland regarding the work of the Council, as well as access to the various services of the City of Cleveland and the City Council. For more information and to see the Request for Proposals, go to [www.clevelandcitycouncil.org](http://www.clevelandcitycouncil.org) or call (216) 664-4466.

January 26, 2011, February 2, 2011, February 9, 2011, February 16, 2011 and February 23, 2011

**NOTICE OF PUBLIC HEARING**

NONE

**CITY OF CLEVELAND BIDS**

**For All Departments**

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

**Each bid must be made in accordance with the specifications and must be submitted on the blanks**

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

**187.10 Negotiated contracts; Notice required in Advertisement for Bids.**

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

WEDNESDAY, MARCH 30, 2011

**File No. 21-11 — Federal Services Station Building Improvements WBS No. H260-3**, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 273-09, passed by the Council of the City of Cleveland, June 8, 2009.

**THERE WILL BE A NON-REFUNDABLE FEE FOR PLANS AND SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND OR MONEY ORDER ONLY (NO COMPANY CHECKS, NO CASH AND NO CREDIT CARDS WILL BE ACCEPTED).**

**THERE WILL BE A MANDATORY PRE-BID MEETING FRIDAY, FEBRUARY 25, 2011 AT 10:00 A.M. CLEVELAND HOPKINS INTERNATIONAL AIRPORT, ENGINEERING BUILDING, 19501 FIVE POINTS ROAD, CLEVELAND, OHIO 44114.**

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

February 16, 2011 and February 23, 2011

FRIDAY, MARCH 11, 2011

**File No. 23-11 — Rehabilitation and Replacing The Lee Area Sewer System**, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 397-09, passed by the Council of the City of Cleveland, June 5, 2009.

**THERE WILL BE A NON-REFUNDABLE FEE FOR PLANS AND SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS**

(\$50.00) IN THE FORM OF A CASHIER'S CHECK AND OR MONEY ORDER ONLY (NO COMPANY CHECKS, NO CASH AND NO CREDIT CARDS WILL BE ACCEPTED).

THERE WILL BE A MANDATORY PRE-BID MEETING THURSDAY, MARCH 3, 2011 AT 10:00 A.M. THE DIVISION OF WATER POLLUTION CONTROL, 12302 KIRBY AVENUE, CLEVELAND, OHIO 44108.

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

February 23, 2011 and March 2, 2011

**WEDNESDAY, MARCH 16, 2011**

**File No. 22-11 — Greenspace at Zone Recreation Center,** for the Division of Architecture and Site Development, Department of Public Works, as authorized by Ordinance No. 607-10, passed by the Council of the City of Cleveland, June 11, 2010.

THERE WILL BE A NON-REFUNDABLE FEE FOR PLANS AND SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND OR MONEY ORDER ONLY (NO COMPANY CHECKS, NO CASH AND NO CREDIT CARDS WILL BE ACCEPTED).

THERE WILL BE A NON-MANDATORY PRE-BID MEETING THURSDAY, MARCH 3, 2011 AT 10:00 A.M. CLEVELAND CITY HALL, ROOM 517A, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

February 23, 2011 and March 2, 2011

**ADOPTED RESOLUTIONS AND ORDINANCES**

**Res. No. 205-11.**

**By Council Member Cimperman, Miller, Cleveland and Sweeney (by request).**

**An emergency resolution declaring the intent to vacate a portion of Lakeside Avenue N.E.**

Whereas, this Council is satisfied that there is good cause to vacate a portion of Lakeside Avenue, as described; and

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

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

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

**Partial Vacation 1**

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Lakeside Avenue N.E. (99 feet wide) and being further known as all that space of the Northerly 15.43 feet that lies between a lower horizontal plane, said plane being also beneath the bottom of secondary utility trench of the existing lower exhibit hall at elevation 605.50

feet above sea level (NAVD 29) and an upper horizontal plane, said plane being also the top of slab of the existing lower exhibit hall at elevation 643.30 feet above sea level (NAVD 29), the Center 63.00 feet that lies between a lower horizontal plane, said plane being also beneath the bottom of mat foundation of the existing lower exhibit hall at elevation 608.50 feet above sea level (NAVD 29) and an upper horizontal plane, said plane being also the ceiling of the existing lower exhibit hall at elevation 636.00 feet above sea level (NAVD 29) and the Southerly 20.57 feet that lies between a lower horizontal plane, said plane being also beneath the bottom of mat foundation of the existing lower exhibit hall at elevation 608.50 feet above sea level (NAVD 29) and an upper horizontal plane, said plane being also the top of slab of the proposed lower exhibit hall at elevation 644.00 feet tapering to 645.00 feet above sea level (NAVD 29) based on National Geodetic Survey Datum, the lateral limits being bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of Lakeside Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide); thence North 55°52'41" East, along said center line of Lakeside Avenue N.E., a distance of 322.70 feet to a surface elevation of 645.81 feet; thence descending vertically, along the locus of a point, a distance of 9.81 feet to a point in the upper horizontal plane of the Center section at elevation 636.00 feet and the principal place of beginning of the land herein described;

**Course 1**

Thence North 34°07'19" West, a distance of 49.50 feet to the Northweste-ly right of way line of said Lakeside Avenue N.E.;

**Course 2**

Thence North 55°52'41" East, along said Northweste-ly right of way line of Lakeside Avenue N.E., a distance of 489.70 feet;

**Course 3**

Thence South 34°07'19" East, a distance of 99.00 feet to the Southeaste-ly right of way line of said Lakeside Avenue N.E.;

**Course 4**

Thence South 55°52'41" West, along said Southeaste-ly right of way line of Lakeside Avenue N.E., a distance of 88.99 feet;

**Course 5** Thence North 34°07'19" West, a distance of 17.00 feet;

**Course 6**

Thence South 55°52'41" West, parallel with said Southeaste-ly right of way line of Lakeside Avenue N.E., a distance of 267.00 feet;

**Course 7**

Thence South 34°07'19" East, a distance of 17.00 feet to said Southeaste-ly right of way line of Lakeside Avenue N.E.;

**Course 8**

Thence South 55°52'41" West, along said Southeaste-ly right of way line of Lakeside Avenue N.E., a distance of 133.71 feet;

**Course 9**

Thence North 34°07'19" West, a distance of 49.50 feet to the principal place of beginning and containing

43,941 Square Feet of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

Be the same more or less, but subject to all legal highways and easements of record

**Partial Vacation 2**

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Lakeside Avenue N.E. (99 feet wide) and is further bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of Lakeside Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide). Thence North 55°52'41" East, along said center line of Lakeside Avenue N.E., a distance of 49.50 feet. Thence South 34°03'06" East, a distance of 49.50 feet to the intersection of the Southeaste-ly right of way line of said Lakeside Avenue N.E. with the Northeaste-ly right of way line of said Ontario Street. Thence North 55°52'41" East, along said Southeaste-ly right of way line of Lakeside Avenue N.E., a distance of 406.97 feet to the principal place of beginning of the land herein described;

**Course 1**

Thence North 34°07'19" West, a distance of 17.00 feet;

**Course 2**

Thence North 55°52'41" East, parallel with said Southeaste-ly right of way line of Lakeside Avenue N.E., a distance of 267.00 feet;

**Course 3**

Thence South 34°07'19" East, a distance of 17.00 feet to said Southeaste-ly right of way line of Lakeside Avenue N.E.;

**Course 4**

Thence South 55°52'41" West, along said Southeaste-ly right of way line of Lakeside Avenue N.E., a distance of 267.00 feet to the principal place of beginning and containing 0.1042 Acres (4,539 Square Feet) of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

Be the same more or less, but subject to all legal highways and easements of record.

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

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

Adopted February 14, 2011.

Effective February 14, 2011.

**Res. No. 209-11.**

**By Council Members J. Johnson, Dow and Cimperman.**

**An emergency resolution urging Governor John Kasich and the Ohio General Assembly to amend Section 2743.60 of the Revised Code (Ohio Victims Compensation Fund) to allow a claimant to receive an award of reparations regardless of whether the**



**innocent victim or the innocent claimant was convicted of a felony offense within 10 years before the crime.**

Whereas, the Ohio Revised Code allows for a victim of "criminally injurious conduct" or the victim's family to receive reparations, or compensatory payments for certain expenses that are resultant of the crime; and

Whereas, the Revised Code further allows for denial of a compensation claim if the innocent victim of the criminal misconduct, or the innocent member of the victim's family making the claim, has been convicted of a felony offense within the 10 years previous to the crime for which compensation is sought; and

Whereas, this Council believes that this discriminates against ex-offenders who have turned, or are attempting to turn, their lives around; and

Whereas, the Governor and the Ohio General Assembly are asked to amend this law so that compensation is distributed fairly to all victims, regardless of whether they have committed past crimes; and

Whereas, the recent denial by the Ohio Victims Compensation Fund of compensation to families representing victims who were ex-offenders and who were killed on Imperial Avenue (aka Imperial Avenue murders) was especially unfair and insensitive; and

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

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

**Section 1.** That this Council urges Governor John Kasich and the Ohio General Assembly to amend Section 2743.60 of the Revised Code (Ohio Victims Compensation Fund) to allow a claimant to receive an award of reparations regardless of whether the innocent victim or the innocent claimant was convicted of a felony offense within 10 years before the crime.

**Section 2.** That the Clerk of Council is hereby directed to transmit copies of this resolution to Governor John Kasich and all members of the Ohio General Assembly.

**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 February 14, 2011.

Effective February 14, 2011.

**Res. No. 211-11.**

**By Council Members Cimperman and Westbrook.**

**An emergency resolution urging Governor Kasich and the Ohio General Assembly to pass a budget that protects funding health, education, human services and other critical needs in the Ohio State 2012-2013 biennium budget through a balanced approach of long term funding and revenue increases.**

Whereas, as a result of the tax cuts begun in 2005 and a weak Ohio economy, Ohio is currently facing at least an eight billion dollar deficit as the Governor and General Assembly

begin to consider and approve a biennium budget for fiscal years 2012-2013; and

Whereas, without revenue increases, this means that one out of every six dollars that has previously been appropriated for Ohio's needs will have to be cut; and

Whereas, such cuts will detrimentally affect Cleveland and Clevelanders, including anticipated cuts to public education, higher education, the local government fund, child care, elderly services, health care, mental health services, public transportation, library services, public safety, and other critical needs; and

Whereas, in this economic climate with Ohio having a 9.6% unemployment rate, and millions of others struggling to make it day to day, we cannot afford to decrease and eliminate services that will reduce and diminish the opportunities for Ohio citizens to move forward productively with their lives; and

Whereas, to protect critical services, potential areas to be examined for revenue enhancements include closing the billions of dollars in tax loopholes, reinstatement of a 7.5% income-tax rate for those making over \$201,800, and the strengthening of corporate taxes; 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 urges Governor Kasich and the Ohio General Assembly to pass a budget that protects funding health, education, human services and other critical needs in the Ohio State 2012-2013 biennium budget through a balanced approach of long term funding and revenue increases.

**Section 2.** That the Clerk of Council is hereby directed to transmit copies of this resolution to the Ohio General Assembly, the Speaker of the Ohio House of Representatives, the Ohio Senate President, all Cleveland-area General Assembly members, and Governor Kasich.

**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 February 14, 2011.

Effective February 18, 2011.

**Res. No. 217-11.**

**By Council Member Polensek.**

**An emergency resolution withdrawing objection to the renewal of a D5 and D6 Liquor Permit at 18414-16 St. Clair Avenue, and repealing Resolution No. 1068-10, objecting to said renewal.**

Whereas, this Council objected to a D5 and D6 Liquor Permit to DPG Lounge, LLC, 18414-17 St. Clair Avenue, Cleveland, Ohio 44110 by Resolution No. 1068-10 adopted by the Council on August 18, 2010; and

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

Whereas, this resolution constitutes an emergency measure 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 objection to a D5 and D6 Liquor Permit to DPG Lounge, LLC, 18414-16 St. Clair Avenue, Cleveland, Ohio 44110, Permanent Number 2296200 be and the same is hereby withdrawn and Resolution No. 1068-10, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate renewal thereof.

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

Adopted February 14, 2011.

Effective February 18, 2011.

**Ord. No. 128-11.**

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

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$750,000 for the purpose of providing funds to improve municipal cemetery facilities, buildings, structures and grounds and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five years and that the maximum maturity of the Bonds is 20 years, as evidenced by the Certificate contained in File No. 128-11-A; and

Whereas, this Council passed Ordinance No. 1749-80 on October 8, 1980, and thereafter amended that ordinance by Ordinance No. 1112-83, passed May 6, 1983, and Ordinance No. 944-96, passed June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"), providing the general terms and provisions for the issuance of unvoted general obligations of the City, with the specific terms of each series of Bonds to be contained in ordinances authorizing the issuance of Bonds in accordance with the provisions thereof (the "Series Bond Ordinances"); and

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

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

**Section 1. Purpose.**

It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) for the purpose of providing funds to improve municipal cemetery facilities, buildings, structures and grounds by constructing, reconstructing, installing, enlarging, renovating, and rehabilitating buildings, structures and grounds, including clearing, grading and excavating land, reconstructing, installing, renovating, and rehabilitating septic system, drainage and sewer facilities, installing access roadways including any necessary bridges and culverts, installing utility lines, laying out and numbering burial plots, constructing and reconstructing retaining walls, gates and fences, acquiring and installing fences, gates, signage, waste receptacles and other fixtures, and planting and landscaping, together with all necessary and incidental appurtenances and the acquisition of any required real estate and interests in real estate, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority and Terms.**

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Chapter 133 of the Ohio Revised Code and other applicable provisions of the Ohio Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance for the purpose stated in Section 1 hereof. The Bonds shall be designated "Cemeteries Improvement Bonds" and may contain such further designation as provided in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be issued in the principal amount specified in the Certificate of Award, which shall not exceed the amount stated in Section 1 hereof. The Bonds shall be dated the date and shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable when due, or until the principal amount is paid, semiannually as specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning on the date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature in the years and principal amounts as shall be permitted by law and determined

by the Director of Finance and specified in the Certificate of Award, based on the written advice of a Financial Advisor to be in the best interests of the City, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than November 15, 2011 and no later than December 31, 2013, (iii) the final maturity date of the Bonds shall be no later than 20 years from that date which is 12 months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

The Bonds stated to mature in any year may be issued as term bonds (the "Term Bonds"), payable pursuant to Mandatory Sinking Fund Redemption Requirements as defined and further described below. The Director of Finance shall determine in the Certificate of Award whether any of the Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements").

The Bonds shall be subject to redemption or purchase prior to stated maturity as follows:

**(a) Mandatory Sinking Fund Redemption.** If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory sinking fund redemption and be redeemed pursuant to Mandatory Sinking Fund Redemption Requirements, at a redemption price of 100% of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the Escrow Agent, currently The Huntington National Bank, for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Registrar (as defined in Section 3 hereof) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, setting forth the extent of the credit to be applied with respect to the then-current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be

reduced. A credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) also shall be received by the City for any Term Bonds that prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and cancelled by the Registrar, to the extent not applied theretofore as a credit against any mandatory redemption obligation.

Each Term Bond so delivered, or previously redeemed, or purchased and cancelled, shall be credited by the Escrow Agent at 100% of the principal amount thereof against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation). Any excess of that amount over the then-current Mandatory Sinking Fund Redemption Requirement shall be credited against subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations) in the order directed by the Director of Finance.

**(b) Optional Redemption.** The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. The first optional redemption date shall not be later than ten years from the first Interest Payment Date, and the highest redemption price shall not be greater than 102% of the principal amount redeemed plus accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption at a price exceeding 100% of the principal amount to be redeemed is to take place as of any applicable Mandatory Redemption Date, the Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Bonds to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements of paragraph (a). The Bonds shall be redeemed pursuant to this paragraph only upon written notice from the Director of Finance to the Registrar. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. There shall be deposited with the Registrar on or prior to the redemption date funds sufficient to redeem at the redemption price all of the redeemable Bonds for which notice of redemption has been given.

**(c) Purchase in Lieu of Redemption.** If and to the extent provided in the Certificate of Award, the City may elect to purchase Bonds called for optional redemption in lieu of redeeming those Bonds. That election shall be exercised by written direction from the Director of Finance to the Registrar and the Escrow Agent.

That written direction shall state whether all or less than all of the Bonds called for optional redemption are to be purchased by the City in lieu of redemption, shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. If less than all of the Bonds called for optional redemption are to be purchased in lieu of redemption, the amount of each maturity to be purchased shall be in amounts of \$5,000 or integral multiples of \$5,000. Any Bonds called for optional redemption that are not to be purchased shall be redeemed in accordance with their redemption provisions. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds on the redemption date if the Bonds had been optionally redeemed instead of being purchased. No notice of the purchase in lieu of redemption is required to be given to the owners of the Bonds in addition to the notice of redemption required by this Ordinance. The Escrow Agent or Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Escrow Agent or Registrar, as paying agent, by the City for the purpose. On or prior to the scheduled date for optional redemption, the City may rescind its direction to purchase the Bonds in lieu of redemption by written notice from the Director of Finance to the Registrar and the Escrow Agent. In the event that the direction to purchase is rescinded, the Bonds shall be redeemed on the redemption date set forth in the notice of redemption delivered to the owners of the Bonds and in accordance with the provisions of this Ordinance.

**(d) Partial Redemption or Purchase.** If fewer than all of the outstanding Bonds are called for redemption at one time (whether for redemption or purchase in lieu of redemption), they shall be called in the order of maturities directed by the Director of Finance. If fewer than all Bonds of a single maturity are to be redeemed or purchased in lieu of redemption, the selection of Bonds to be redeemed or purchased, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Registrar by lot in a manner determined by the Registrar. In the case of a partial redemption or purchase of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Registrar (i) for payment of the redemption or purchase price of the \$5,000 unit or units called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner thereof, of a new Bond or Bonds of any authorized denomination or denominations in an aggregate principal amount equal to the unmatured portion of the Bond not redeemed or purchased and bearing interest at the same rate and matur-

ing on the same date as the Bond surrendered.

**(e) Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption (or such period specified in the Certificate of Award), to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any provider of a Credit Support Instrument (as defined in Section 15 hereof) for the Bonds or designated portions thereof. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond. Any notice of redemption of any Bonds may specify that the redemption is contingent on the deposit of moneys with the Escrow Agent or Registrar, as paying agent, on or prior to the redemption date in an amount sufficient to pay the redemption price of the Bonds to be redeemed.

**(f) Payment of Redeemed Bonds.** Notice having been mailed in the manner provided in the preceding paragraph, and moneys having been deposited by the City with the Escrow Agent or Registrar, as paying agent, in an amount sufficient to pay the redemption price, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender at the place or places specified in that notice, shall be paid. If money for the redemption of all of the Bonds and portions thereof to be redeemed, including interest accrued to the redemption date, is held by the Registrar on the redemption date, and, if notice of redemption has been deposited in the mail, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If that money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All money held by the Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Registrar or Escrow Agent as paying agent. Principal shall be payable when due upon presentation and surrender of the Bonds at the principal corporate trust office of the Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered,

and to that person's address appearing on the Bond Register (as defined in Section 3 hereof) at the close of business on the date provided in the Registrar Agreement authorized and defined in Section 3 hereof (the "Record Date"). Notwithstanding any contrary provision in the General Bond Ordinance, so long as the Bonds are held by a Depository in a book entry system (as described in Section 3 hereof), debt charges on the Bonds will be payable in lawful money of the United States by wire transfer to the Depository made by the Escrow Agent on each Interest Payment Date.

This Series Bond Ordinance is enacted pursuant to the General Bond Ordinance. The General Bond Ordinance, except for the third paragraph of Section 13(a) (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 (pertaining generally to the periods during which the City is not required to make any transfers or exchanges of bonds issued under the General Bond Ordinance), will apply to the Bonds. Except for those provisions, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated in this Ordinance. Words and terms not otherwise defined in this Ordinance shall have the same meaning as set forth in the General Bond Ordinance.

**Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents.**

The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Bonds and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"). The Registrar shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance is authorized to sign and deliver, in the name and on behalf of the City, an agreement between the City and the Registrar (the "Registrar Agreement"), approved as to form and correctness by the Director of Law, providing for services relating to the registration, transfer, exchange and payment of the Bonds on terms approved by the Director of Finance on behalf of the City and consistent with this Ordinance and not substantially adverse to the City. That approval shall be conclusively evidenced by the signing of the Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar

Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). The person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the principal corporate trust office of the Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. Upon exchange or transfer the Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Registrar may require that those charges, if any, be paid before the procedure is begun on the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer.

Notwithstanding any other provisions of this Ordinance, if it is determined by the Director of Finance to be advantageous to the City, the Bonds may be issued in book entry form in accordance with the provisions of this Section. As used in this Section and this Ordinance:

"Book entry form" or "book entry system" means a form or system under which (i) the ownership of beneficial interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Bonds "immobilized" in the custody of the Depository. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in those Bonds and that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in bonds or the principal and interest, and to effect transfers of bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Registrar, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and the Trustee and Registrar shall authenticate and deliver bond certificates in registered form to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed to the extent necessary or required to enter into any agreements determined necessary in connection with the book entry system for the Bonds, after determining that the signing thereof will not endanger the funds or securi-

ties of the City and after the approval of the form of any such agreement by the Director of Law.

#### **Section 4. Sale of Bonds.**

The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 16 hereof and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, the purchase price (which shall be not less than 97% of the principal amount of the Bonds plus any accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is further authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds, which shall be consistent with this Ordinance, not substantially adverse to the City, and approved by the Director of Finance and Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2011" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

**Section 5. Provision for Levying and Collecting Tax.**

For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

The tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, extended and collected. The tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from those tax levies shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as required by the General Bond Ordinance, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of principal of and interest on the Bonds when and as the same fall due; provided, however, that, subject to the provisions of Section 8 of the General Bond Ordinance, in each year to the extent that revenues are available from other sources for the payment of the Bonds and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such revenues so available and appropriated.

This Council hereby covenants, on behalf of the City and its officials, pursuant to the authorization under Sections 133.25(B)(1) and 5705.51 of the Ohio Revised Code, and in accordance with the provisions of and to the extent required or permitted by the General Bond Ordinance, that the City will appropriate annually from the proceeds of the City's municipal income taxes an amount as is necessary to meet the annual debt charges for the Bonds.

**Section 6. Application of Proceeds.**

The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. The proceeds of the Bonds to be applied to pay costs of any Credit Support Instruments obtained pursuant to Section 15 hereof shall be paid to the provider or providers of those Credit Support Instruments. The proceeds of the Bonds to be used to pay costs of issuing the Bonds shall be deposited with the Registrar in a separate account under the Registrar Agreement pending their application

to the payment of such costs. Pursuant to Chapter 133 of the Ohio Revised Code and this Ordinance, and notwithstanding Chapter 179 of the Codified Ordinances, any accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

**Section 7. General Obligation.**

The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

**Section 8. Defeasance.**

**(a) Release of Ordinance.** If the City shall pay or cause to be paid and discharged all the outstanding Bonds, or there shall otherwise be paid to the holders of the outstanding Bonds all debt charges due or to become due thereon, and provision shall also be made for paying all other sums payable hereunder, then and in that event this Ordinance (except for Section 8(b) hereof) shall cease to be of further effect, and the covenants, agreements and other obligations of the City under this Ordinance shall be discharged and satisfied, and thereupon the Trustee shall at the request of the City execute and deliver to the City such instruments in writing as shall discharge the lien hereof and enter on the record such discharge of the lien and such other instruments as may be reasonably required by the City.

**(b) Payment and Discharge of Bonds.** Outstanding Bonds shall be deemed to have been paid and discharged within the meaning of this Ordinance, including without limitation, Section 8(a) hereof, if:

(i) the Escrow Agent or Paying Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, direct obligations of the United States certified by an independent public accounting firm of national reputation to be of such maturities and interest payment dates and to bear such interest, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (likewise to be held in trust and committed, except as hereinafter provided), as will be sufficient, together with moneys referred to in (i) above, for the payment, at their maturities or redemption dates, of all debt charges on the Bonds to their date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date then to the date of the tender of such payment; provided, that if any Bonds are to be

redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice. Any moneys held by the Escrow Agent in accordance with the provisions of this Section shall be invested by the Escrow Agent in direct obligations of the United States of America maturing, or redeemable at the option of the holder, at times and in amounts sufficient to meet payment of debt charges on the Bonds, as directed by the Director of Finance. Any income or interest earned by, or increment to, the investments held under this Section shall, to the extent determined from time to time by the Escrow Agent to be in excess of the amount required to be held by it for the purposes of this Section, be transferred at the time of such determination as provided in Section 17(a) of the General Bond Ordinance for unclaimed funds held by a Paying Agent. In the event of nonpresentation of any Bond as described in Section 17(a) of the General Bond Ordinance, the moneys held pursuant to this Section shall be held and paid as provided in said Section 17(a) for unclaimed funds held by a Paying Agent.

**Section 9. Bond Anticipation Notes.**

For the purpose of raising money in anticipation of the issuance of the Bonds for the purpose set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

**(a) Terms of the Notes.** The Notes shall bear interest at such rate, not exceeding seven percent (7%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two years following the date of issuance of the Notes; shall be designated "Cemeteries Improvement Bond Anticipation Notes"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semiannually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth month following their date of issuance, interest on the Notes shall be payable at maturity.

U.S. Bank National Association is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"). The Escrow Agent also shall act as paying agent for the

Notes if the Notes are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, an agreement among the City, the Note Registrar and the Escrow Agent (the "Note Registrar Agreement") providing for services relating to the registration, transfer, exchange and payment of Notes on terms that are approved by the Director of Finance on behalf of the City. That approval shall be conclusively evidenced by the signing of the Note Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). The person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this Ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

Any Note may be exchanged for Notes of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. A Note may be transferred only on the Note Register upon presentation and surrender of the Note at the principal corporate trust office of the Note Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. Upon exchange or transfer the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmaturing principal amount of the Note surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Note Registrar shall undertake the exchange or transfer of Notes only after the new Notes are signed by the authorized officers of the City. In all cases of Notes exchanged or transferred, the City shall sign and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the

Note Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Notes issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Notes surrendered upon that exchange or transfer.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes." The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

**(b) Execution and Payment of the Notes.** The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Each Note shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Notes shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Notes shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Notes and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

**(c) Sale of the Notes.** The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

**(d) Security for the Notes.** The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used for the retirement of the Notes at maturity, together with the interest thereon, and are hereby pledged for such purpose.

**Section 10. Provision for Levying and Collecting Tax.**

During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had

been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

**Section 11. Official Statement; Continuing Disclosure.**

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

For the benefit of the holders and beneficial owners from time to time of the Notes or the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the

continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

**Section 12. Miscellaneous.**

(a) Any provisions of the Codified Ordinances of the City that are inconsistent with the provisions of this Ordinance and the General Bond Ordinance shall not apply to the Bonds or the Notes authorized herein.

(b) All covenants, terms and provisions of the General Bond Ordinance are fully applicable to the Bonds and the Notes authorized herein, and nothing in this Ordinance shall be deemed to alter or restrict such full application of the General Bond Ordinance, except for the exclusion from application to the Bonds and the Notes authorized herein of the provisions of the third paragraph of Section 13(a) and the third paragraph of Section 4 of the General Bond Ordinance, pursuant to Section 2 hereof.

**Section 13. Captions.**

The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

**Section 14. Federal Tax Covenants.**

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (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.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes and the 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 Notes and the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

Each covenant made in this Section with respect to the Notes and the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes or the 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 Notes and the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes and the Bonds.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such 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 amounts or payments, as determined by that officer, which action shall be in writing and signed by the 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 Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

**Section 15. Credit Enhancement and Ratings.**

If, in the judgment of the Director of Finance, based on the written advice of a Financial Advisor, the filing of an application for a rating on the Bonds or designated portion thereof by one or more nationally recognized rating agencies is in the best interest of the City, the Director of Finance is authorized to prepare and submit those applications and to provide to each such agency such information as may be required for the purpose. The Director of Finance is authorized to contract for one or more Credit Support Instruments for the Bonds or designated portions thereof if the Director determines, based on the written advice of a Financial Advisor, that the Credit Support Instruments will result in debt service savings to the City. As used in this Section, "Credit Support Instrument" means an insurance policy, surety, letter of credit, or other instrument used to enhance or provide for the security of Bonds. The cost of obtaining each rating and the cost of obtaining each Credit Support Instrument, except to the extent paid by the Original Purchasers in accordance

with the Bond Purchase Agreement, shall be paid from the proceeds of Bonds or funds appropriated for that purpose.

**Section 16. Financial Advisor.**

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

**Section 17. Open Meeting Determination.**

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

**Section 18. Findings and Recitals of Validity.**

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

**Section 19. Delivery to County.**

The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the appropriate official of the County of Cuyahoga, Ohio and to secure a receipt therefor.

**Section 20. Severability.**

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

**Section 21. Legislative Intent.**

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

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

**Section 22. Emergency Measure.**

This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Passed February 14, 2011.

Effective February 18, 2011.

**Ord. No. 129-11.  
By Council Member Sweeney (by  
departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$2,095,000 for the purpose of providing funds to improve municipal parks and recreation facilities and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Two Million Ninety-Five Thousand Dollars (\$2,095,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five years and that the maximum maturity of the Bonds is 26 years, as evidenced by the Certificate contained in File No. 129-11-A; and

Whereas, this Council passed Ordinance No. 1749-80 on October 8, 1980, and thereafter amended that ordinance by Ordinance No. 1112-83, passed May 6, 1983, and Ordinance No. 944-96, passed June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"), providing the general terms and provisions for the issuance of unvoted general obligations of the City, with the specific terms of each series of Bonds to be contained in ordinances authorizing the issuance of Bonds in accor-

dance with the provisions thereof (the "Series Bond Ordinances"); and

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

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

**Section 1. Purpose.**

It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Two Million Ninety-Five Thousand Dollars (\$2,095,000) for the purpose of providing funds to municipal parks and recreation facilities by constructing, reconstructing, rehabilitating, installing, renovating, enlarging, redeveloping and otherwise improving parks and recreation centers and areas, pools, skating rinks, greenhouses, bicycle paths, playgrounds, playfields, tracks, fields and related buildings, structures, walkways, pavement, plazas, landscaping and facilities, and providing necessary water systems, drainage, lighting, signage, fixtures, furnishings, equipment, safety modifications and site improvements, together with all necessary and incidental appurtenances and the acquisition of any required real estate and interests in real estate and the demolition of any existing buildings, structures, walkways and facilities, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority and Terms.**

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Chapter 133 of the Ohio Revised Code and other applicable provisions of the Ohio Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance for the purpose stated in Section 1 hereof. The Bonds shall be designated "Parks and Recreation Facilities Improvement Bonds" and may contain such further designation as provided in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be issued in the principal amount specified in the Certificate of Award, which shall not exceed the amount stated in Section 1 hereof. The Bonds shall be dated the date and shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of

each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable when due, or until the principal amount is paid, semiannually as specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning on the date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature in the years and principal amounts as shall be permitted by law and determined by the Director of Finance and specified in the Certificate of Award, based on the written advice of a Financial Advisor to be in the best interests of the City, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than November 15, 2011 and no later than December 31, 2013, (iii) the final maturity date of the Bonds shall be no later than 26 years from that date which is 12 months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

The Bonds stated to mature in any year may be issued as term bonds (the "Term Bonds"), payable pursuant to Mandatory Sinking Fund Redemption Requirements as defined and further described below. The Director of Finance shall determine in the Certificate of Award whether any of the Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements").

The Bonds shall be subject to redemption or purchase prior to stated maturity as follows:

**(a) Mandatory Sinking Fund Redemption.** If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory sinking fund redemption and be redeemed pursuant to Mandatory Sinking Fund Redemption Requirements, at a redemption price of 100% of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the Escrow Agent, currently The Huntington National Bank, for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Registrar (as defined in Section 3 hereof) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for



any Term Bonds. That option shall be exercised by the City on or before the forty-fifth day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, setting forth the extent of the credit to be applied with respect to the then-current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) also shall be received by the City for any Term Bonds that prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and cancelled by the Registrar, to the extent not applied theretofore as a credit against any mandatory redemption obligation.

Each Term Bond so delivered, or previously redeemed, or purchased and cancelled, shall be credited by the Escrow Agent at 100% of the principal amount thereof against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation). Any excess of that amount over the then-current Mandatory Sinking Fund Redemption Requirement shall be credited against subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations) in the order directed by the Director of Finance.

**(b) Optional Redemption.** The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. The first optional redemption date shall not be later than ten years from the first Interest Payment Date, and the highest redemption price shall not be greater than 102% of the principal amount redeemed plus accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption at a price exceeding 100% of the principal amount to be redeemed is to take place as of any applicable Mandatory Redemption Date, the Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Bonds to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements of paragraph (a). The Bonds shall be redeemed pursuant to this paragraph only upon written notice from the Director of Finance to the Registrar. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. There

shall be deposited with the Registrar on or prior to the redemption date funds sufficient to redeem at the redemption price all of the redeemable Bonds for which notice of redemption has been given.

**(c) Purchase in Lieu of Redemption.** If and to the extent provided in the Certificate of Award, the City may elect to purchase Bonds called for optional redemption in lieu of redeeming those Bonds. That election shall be exercised by written direction from the Director of Finance to the Registrar and the Escrow Agent. That written direction shall state whether all or less than all of the Bonds called for optional redemption are to be purchased by the City in lieu of redemption, shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. If less than all of the Bonds called for optional redemption are to be purchased in lieu of redemption, the amount of each maturity to be purchased shall be in amounts of \$5,000 or integral multiples of \$5,000. Any Bonds called for optional redemption that are not to be purchased shall be redeemed in accordance with their redemption provisions. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds on the redemption date if the Bonds had been optionally redeemed instead of being purchased. No notice of the purchase in lieu of redemption is required to be given to the owners of the Bonds in addition to the notice of redemption required by this Ordinance. The Escrow Agent or Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Escrow Agent or Registrar, as paying agent, by the City for the purpose. On or prior to the scheduled date for optional redemption, the City may rescind its direction to purchase the Bonds in lieu of redemption by written notice from the Director of Finance to the Registrar and the Escrow Agent. In the event that the direction to purchase is rescinded, the Bonds shall be redeemed on the redemption date set forth in the notice of redemption delivered to the owners of the Bonds and in accordance with the provisions of this Ordinance.

**(d) Partial Redemption or Purchase.** If fewer than all of the outstanding Bonds are called for redemption at one time (whether for redemption or purchase in lieu of redemption), they shall be called in the order of maturities directed by the Director of Finance. If fewer than all Bonds of a single maturity are to be redeemed or purchased in lieu of redemption, the selection of Bonds to be redeemed or purchased, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Registrar by lot in a manner determined by the Registrar. In the case of a partial redemption or purchase of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond

shall surrender the Bond to the Registrar (i) for payment of the redemption or purchase price of the \$5,000 unit or units called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner thereof, of a new Bond or Bonds of any authorized denomination or denominations in an aggregate principal amount equal to the unmatured portion of the Bond not redeemed or purchased and bearing interest at the same rate and maturing on the same date as the Bond surrendered.

**(e) Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption (or such period specified in the Certificate of Award), to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any provider of a Credit Support Instrument (as defined in Section 15 hereof) for the Bonds or designated portions thereof. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond. Any notice of redemption of any Bonds may specify that the redemption is contingent on the deposit of moneys with the Escrow Agent or Registrar, as paying agent, on or prior to the redemption date in an amount sufficient to pay the redemption price of the Bonds to be redeemed.

**(f) Payment of Redeemed Bonds.** Notice having been mailed in the manner provided in the preceding paragraph, and moneys having been deposited by the City with the Escrow Agent or Registrar, as paying agent, in an amount sufficient to pay the redemption price, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender at the place or places specified in that notice, shall be paid. If money for the redemption of all of the Bonds and portions thereof to be redeemed, including interest accrued to the redemption date, is held by the Registrar on the redemption date, and, if notice of redemption has been deposited in the mail, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If that money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All money held by the Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners and shall be paid to them, respec-

tively, upon presentation and surrender of those Bonds.

The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Registrar or Escrow Agent as paying agent. Principal shall be payable when due upon presentation and surrender of the Bonds at the principal corporate trust office of the Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register (as defined in Section 3 hereof) at the close of business on the date provided in the Registrar Agreement authorized and defined in Section 3 hereof (the "Record Date"). Notwithstanding any contrary provision in the General Bond Ordinance, so long as the Bonds are held by a Depository in a book entry system (as described in Section 3 hereof), debt charges on the Bonds will be payable in lawful money of the United States by wire transfer to the Depository made by the Escrow Agent on each Interest Payment Date.

This Series Bond Ordinance is enacted pursuant to the General Bond Ordinance. The General Bond Ordinance, except for the third paragraph of Section 13(a) (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 (pertaining generally to the periods during which the City is not required to make any transfers or exchanges of bonds issued under the General Bond Ordinance), will apply to the Bonds. Except for those provisions, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated in this Ordinance. Words and terms not otherwise defined in this Ordinance shall have the same meaning as set forth in the General Bond Ordinance.

**Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents.**

The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Bonds and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"). The Registrar shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance is authorized to sign and deliver, in the name and on behalf of the City, an agreement between the City and the Registrar (the "Registrar Agreement"), approved as to form and cor-

rectness by the Director of Law, providing for services relating to the registration, transfer, exchange and payment of the Bonds on terms approved by the Director of Finance on behalf of the City and consistent with this Ordinance and not substantially adverse to the City. That approval shall be conclusively evidenced by the signing of the Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). The person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the principal corporate trust office of the Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. Upon exchange or transfer the Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or

transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer.

Notwithstanding any other provisions of this Ordinance, if it is determined by the Director of Finance to be advantageous to the City, the Bonds may be issued in book entry form in accordance with the provisions of this Section. As used in this Section and this Ordinance:

"Book entry form" or "book entry system" means a form or system under which (i) the ownership of beneficial interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Bonds "immobilized" in the custody of the Depository. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in those Bonds and that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in bonds or the principal and interest, and to effect transfers of bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Registrar, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and the Trustee and Registrar shall authenticate and deliver bond certificates in registered form to

the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed to the extent necessary or required to enter into any agreements determined necessary in connection with the book entry system for the Bonds, after determining that the signing thereof will not endanger the funds or securities of the City and after the approval of the form of any such agreement by the Director of Law.

#### **Section 4. Sale of Bonds.**

The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 16 hereof and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, the purchase price (which shall be not less than 97% of the principal amount of the Bonds plus any accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is further authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds, which shall be consistent with

this Ordinance, not substantially adverse to the City, and approved by the Director of Finance and Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2011" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

#### **Section 5. Provision for Levying and Collecting Tax.**

For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

The tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, extended and collected. The tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from those tax levies shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as required by the General Bond Ordinance, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of principal of and interest on the Bonds when and as the same fall due; provided, however, that, subject to the provisions of Section 8 of the General Bond Ordinance, in each year to the extent that revenues are available from other sources for the payment of the Bonds and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such revenues so available and appropriated.

This Council hereby covenants, on behalf of the City and its officials, pursuant to the authorization under Sections 133.25(B)(1) and 5705.51 of the Ohio Revised Code, and in accordance with the provisions of and to the extent required or permitted by the General Bond Ordinance, that the City will appropriate annually from the proceeds of the City's municipal income taxes an amount as is necessary to meet the annual debt charges for the Bonds.

#### **Section 6. Application of Proceeds.**

The proceeds from the sale of the Bonds, except for accrued interest

thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. The proceeds of the Bonds to be applied to pay costs of any Credit Support Instruments obtained pursuant to Section 15 hereof shall be paid to the provider or providers of those Credit Support Instruments. The proceeds of the Bonds to be used to pay costs of issuing the Bonds shall be deposited with the Registrar in a separate account under the Registrar Agreement pending their application to the payment of such costs. Pursuant to Chapter 133 of the Ohio Revised Code and this Ordinance, and notwithstanding Chapter 179 of the Codified Ordinances, any accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

#### **Section 7. General Obligation.**

The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

#### **Section 8. Defeasance.**

**(a) Release of Ordinance.** If the City shall pay or cause to be paid and discharged all the outstanding Bonds, or there shall otherwise be paid to the holders of the outstanding Bonds all debt charges due or to become due thereon, and provision shall also be made for paying all other sums payable hereunder, then and in that event this Ordinance (except for Section 8(b) hereof) shall cease to be of further effect, and the covenants, agreements and other obligations of the City under this Ordinance shall be discharged and satisfied, and thereupon the Trustee shall at the request of the City execute and deliver to the City such instruments in writing as shall discharge the lien hereof and enter on the record such discharge of the lien and such other instruments as may be reasonably required by the City.

**(b) Payment and Discharge of Bonds.** Outstanding Bonds shall be deemed to have been paid and discharged within the meaning of this Ordinance, including without limitation, Section 8(a) hereof, if:

(i) the Escrow Agent or Paying Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, direct obligations of the United States certified by an independent public accounting firm of national reputation to be of such maturities and interest payment dates and to bear such interest, without further investment or reinvest-

ment of either the principal amount thereof or the interest earnings therefrom (likewise to be held in trust and committed, except as hereinafter provided), as will be sufficient, together with moneys referred to in (1) above, for the payment, at their maturities or redemption dates, of all debt charges on the Bonds to their date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date then to the date of the tender of such payment; provided, that if any Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice. Any moneys held by the Escrow Agent in accordance with the provisions of this Section shall be invested by the Escrow Agent in direct obligations of the United States of America maturing, or redeemable at the option of the holder, at times and in amounts sufficient to meet payment of debt charges on the Bonds, as directed by the Director of Finance. Any income or interest earned by, or increment to, the investments held under this Section shall, to the extent determined from time to time by the Escrow Agent to be in excess of the amount required to be held by it for the purposes of this Section, be transferred at the time of such determination as provided in Section 17(a) of the General Bond Ordinance for unclaimed funds held by a Paying Agent. In the event of nonpresentation of any Bond as described in Section 17(a) of the General Bond Ordinance, the moneys held pursuant to this Section shall be held and paid as provided in said Section 17(a) for unclaimed funds held by a Paying Agent.

#### **Section 9. Bond Anticipation Notes.**

For the purpose of raising money in anticipation of the issuance of the Bonds for the purpose set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Two Million Ninety-Five Thousand Dollars (\$2,095,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

(a) **Terms of the Notes.** The Notes shall bear interest at such rate, not exceeding seven percent (7%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two years following the date of issuance of the Notes; shall be designated "Parks and Recreation Facilities Improvement Bond Anticipation Notes"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system)

in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semiannually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth month following their date of issuance, interest on the Notes shall be payable at maturity.

U.S. Bank National Association is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"). The Escrow Agent also shall act as paying agent for the Notes if the Notes are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, an agreement among the City, the Note Registrar and the Escrow Agent (the "Note Registrar Agreement") providing for services relating to the registration, transfer, exchange and payment of Notes on terms that are approved by the Director of Finance on behalf of the City. That approval shall be conclusively evidenced by the signing of the Note Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). The person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this Ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

Any Note may be exchanged for Notes of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. A Note may be transferred only on the Note Register upon presentation and surrender of the Note at the principal corporate trust office of the Note Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. Upon exchange or transfer the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Note surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Note Registrar shall undertake the exchange or transfer of Notes only after the new

Notes are signed by the authorized officers of the City. In all cases of Notes exchanged or transferred, the City shall sign and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Note Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Notes issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Notes surrendered upon that exchange or transfer.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes." The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

(b) **Execution and Payment of the Notes.** The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Each Note shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Notes shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Notes shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Notes and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

(c) **Sale of the Notes.** The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

(d) **Security for the Notes.** The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Notes and any excess funds resulting from the issuance of the Notes shall, to the

extent necessary, be used for the retirement of the Notes at maturity, together with the interest thereon, and are hereby pledged for such purpose.

**Section 10. Provision for Levying and Collecting Tax.**

During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

**Section 11. Official Statement; Continuing Disclosure.**

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

For the benefit of the holders and beneficial owners from time to time of the Notes or the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in

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

**Section 12. Miscellaneous.**

(a) Any provisions of the Codified Ordinances of the City that are inconsistent with the provisions of this Ordinance and the General Bond Ordinance shall not apply to the Bonds or the Notes authorized herein.

(b) All covenants, terms and provisions of the General Bond Ordinance are fully applicable to the Bonds and the Notes authorized herein, and nothing in this Ordinance shall be deemed to alter or restrict such full application of the General Bond Ordinance, except for the exclusion from application to the Bonds and the Notes authorized herein of the provisions of the third paragraph of Section 13(a) and the third paragraph of Section 4 of the General Bond Ordinance, pursuant to Section 2 hereof.

**Section 13. Captions.**

The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

**Section 14. Federal Tax Covenants.**

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (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.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes and the 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 Notes and the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v)

refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

Each covenant made in this Section with respect to the Notes and the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes or the 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 Notes and the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes and the Bonds.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such 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 amounts or payments, as determined by that officer, which action shall be in writing and signed by the 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 Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

**Section 15. Credit Enhancement and Ratings.**

If, in the judgment of the Director of Finance, based on the written advice of a Financial Advisor, the filing of an application for a rating on the Bonds or designated portion thereof by one or more nationally recognized rating agencies is in the best interest of the City, the Director of Finance is authorized to prepare and submit those applications and to provide to each such agency such information as may be required for the purpose. The Director of Finance is authorized to contract for one or more Credit Support Instruments for the Bonds or designated portions thereof

if the Director determines, based on the written advice of a Financial Advisor, that the Credit Support Instruments will result in debt service savings to the City. As used in this Section, "Credit Support Instrument" means an insurance policy, surety, letter of credit, or other instrument used to enhance or provide for the security of Bonds. The cost of obtaining each rating and the cost of obtaining each Credit Support Instrument, except to the extent paid by the Original Purchasers in accordance with the Bond Purchase Agreement, shall be paid from the proceeds of Bonds or funds appropriated for that purpose.

**Section 16. Financial Advisor.**

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

**Section 17. Open Meeting Determination.**

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

**Section 18. Findings and Recitals of Validity.**

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

**Section 19. Delivery to County.**

The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the appropriate official of the County of Cuyahoga, Ohio and to secure a receipt therefor.

**Section 20. Severability.**

Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if

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

**Section 21. Legislative Intent.**

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

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

**Section 22. Emergency Measure.**

This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Passed February 14, 2011.

Effective February 18, 2011.

**Ord. No. 130-11.  
By Council Member Sweeney (by departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$15,155,000 for the purpose of providing funds to improve the municipal street system and related facilities and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Fifteen Million One Hundred Fifty-Five Thousand Dollars (\$15,155,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five years and that the maximum maturity of the Bonds is 18 years, as evidenced by the Certificate contained in File No. 130-11-A; and

Whereas, this Council passed Ordinance No. 1749-80 on October 8, 1980,

and thereafter amended that ordinance by Ordinance No. 1112-83, passed May 6, 1983, and Ordinance No. 944-96, passed June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"), providing the general terms and provisions for the issuance of unvoted general obligations of the City, with the specific terms of each series of Bonds to be contained in ordinances authorizing the issuance of Bonds in accordance with the provisions thereof (the "Series Bond Ordinances"); and

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

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

**Section 1. Purpose.**

It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Fifteen Million One Hundred Fifty-Five Thousand Dollars (\$15,155,000) for the purpose of providing funds to improve the municipal street system and related facilities, including streets, expressways, roadways, driveways, underground vaults, sidewalks, bikeways and walkways, by acquiring, constructing, reconstructing, opening, extending, widening, grading, draining, paving, resurfacing, lighting and curbing, removing or reconstructing underground vaults to preserve the public right of way, installing gutters, sidewalks and related pedestrian improvements, constructing and improving culverts, resetting and constructing catch basins and other storm drainage facilities, constructing, reconstructing, replacing, renovating and rehabilitating bridges, acquiring any real estate and interests in real estate, including easements, necessary for such purpose, and installing signs, signals, markings and other devices for traffic control purposes, together with all necessary and incidental appurtenances, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority and Terms.**

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Chapter 133 of the Ohio Revised Code and other applicable provisions of the Ohio Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance for the purpose stated in Section 1 hereof. The Bonds shall be designated "Bridges and Roadways Improvement Bonds" and may contain such further designation as provided in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance

with this Ordinance (the "Certificate of Award"). The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be issued in the principal amount specified in the Certificate of Award, which shall not exceed the amount stated in Section 1 hereof. The Bonds shall be dated the date and shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable when due, or until the principal amount is paid, semiannually as specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning on the date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature in the years and principal amounts as shall be permitted by law and determined by the Director of Finance and specified in the Certificate of Award, based on the written advice of a Financial Advisor to be in the best interests of the City, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than November 15, 2011 and no later than December 31, 2013, (iii) the final maturity date of the Bonds shall be no later than 18 years from that date which is 12 months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

The Bonds stated to mature in any year may be issued as term bonds (the "Term Bonds"), payable pursuant to Mandatory Sinking Fund Redemption Requirements as defined and further described below. The Director of Finance shall determine in the Certificate of Award whether any of the Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements").

The Bonds shall be subject to redemption or purchase prior to stated maturity as follows:

**(a) Mandatory Sinking Fund Redemption.** If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory sinking fund redemption and be redeemed pursuant to Mandatory Sinking Fund Redemption Requirements, at a redemption price of 100% of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the Escrow Agent, currently The Huntington National

Bank, for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Registrar (as defined in Section 3 hereof) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, setting forth the extent of the credit to be applied with respect to the then-current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) also shall be received by the City for any Term Bonds that prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and cancelled by the Registrar, to the extent not applied theretofore as a credit against any mandatory redemption obligation.

Each Term Bond so delivered, or previously redeemed, or purchased and cancelled, shall be credited by the Escrow Agent at 100% of the principal amount thereof against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation). Any excess of that amount over the then-current Mandatory Sinking Fund Redemption Requirement shall be credited against subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations) in the order directed by the Director of Finance.

**(b) Optional Redemption.** The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. The first optional redemption date shall not be later than ten years from the first Interest Payment Date, and the highest redemption price shall not be greater than 102% of the principal amount redeemed plus accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption at a price exceeding 100% of the principal amount to be redeemed is to take

place as of any applicable Mandatory Redemption Date, the Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Bonds to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements of paragraph (a). The Bonds shall be redeemed pursuant to this paragraph only upon written notice from the Director of Finance to the Registrar. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. There shall be deposited with the Registrar on or prior to the redemption date funds sufficient to redeem at the redemption price all of the redeemable Bonds for which notice of redemption has been given.

**(c) Purchase in Lieu of Redemption.** If and to the extent provided in the Certificate of Award, the City may elect to purchase Bonds called for optional redemption in lieu of redeeming those Bonds. That election shall be exercised by written direction from the Director of Finance to the Registrar and the Escrow Agent. That written direction shall state whether all or less than all of the Bonds called for optional redemption are to be purchased by the City in lieu of redemption, shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. If less than all of the Bonds called for optional redemption are to be purchased in lieu of redemption, the amount of each maturity to be purchased shall be in amounts of \$5,000 or integral multiples of \$5,000. Any Bonds called for optional redemption that are not to be purchased shall be redeemed in accordance with their redemption provisions. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds on the redemption date if the Bonds had been optionally redeemed instead of being purchased. No notice of the purchase in lieu of redemption is required to be given to the owners of the Bonds in addition to the notice of redemption required by this Ordinance. The Escrow Agent or Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Escrow Agent or Registrar, as paying agent, by the City for the purpose. On or prior to the scheduled date for optional redemption, the City may rescind its direction to purchase the Bonds in lieu of redemption by written notice from the Director of Finance to the Registrar and the Escrow Agent. In the event that the direction to purchase is rescinded, the Bonds shall be redeemed on the redemption date set forth in the notice of redemption delivered to the owners of the Bonds and in accordance with the provisions of this Ordinance.

**(d) Partial Redemption or Purchase.** If fewer than all of the outstanding Bonds are called for redemption at one time (whether for redemption or purchase in lieu of redemption), they shall be called in the order of maturities directed by the Director of Finance. If fewer than all Bonds of a single maturity are to be redeemed or purchased in lieu of redemption,

the selection of Bonds to be redeemed or purchased, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Registrar by lot in a manner determined by the Registrar. In the case of a partial redemption or purchase of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Registrar (i) for payment of the redemption or purchase price of the \$5,000 unit or units called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner thereof, of a new Bond or Bonds of any authorized denomination or denominations in an aggregate principal amount equal to the unmaturing portion of the Bond not redeemed or purchased and bearing interest at the same rate and maturing on the same date as the Bond surrendered.

**(e) Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption (or such period specified in the Certificate of Award), to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any provider of a Credit Support Instrument (as defined in Section 15 hereof) for the Bonds or designated portions thereof. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond. Any notice of redemption of any Bonds may specify that the redemption is contingent on the deposit of moneys with the Escrow Agent or Registrar, as paying agent, on or prior to the redemption date in an amount sufficient to pay the redemption price of the Bonds to be redeemed.

**(f) Payment of Redeemed Bonds.** Notice having been mailed in the manner provided in the preceding paragraph, and moneys having been deposited by the City with the Escrow Agent or Registrar, as paying agent, in an amount sufficient to pay the redemption price, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender at the place or places specified in that notice, shall be paid. If money for the redemption of all of the Bonds and portions thereof to be redeemed, including interest accrued to the redemption date, is held by the Registrar on the redemp-

tion date, and, if notice of redemption has been deposited in the mail, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If that money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All money held by the Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Registrar or Escrow Agent as paying agent. Principal shall be payable when due upon presentation and surrender of the Bonds at the principal corporate trust office of the Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register (as defined in Section 3 hereof) at the close of business on the date provided in the Registrar Agreement authorized and defined in Section 3 hereof (the "Record Date"). Notwithstanding any contrary provision in the General Bond Ordinance, so long as the Bonds are held by a Depository in a book entry system (as described in Section 3 hereof), debt charges on the Bonds will be payable in lawful money of the United States by wire transfer to the Depository made by the Escrow Agent on each Interest Payment Date.

This Series Bond Ordinance is enacted pursuant to the General Bond Ordinance. The General Bond Ordinance, except for the third paragraph of Section 13(a) (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 (pertaining generally to the periods during which the City is not required to make any transfers or exchanges of bonds issued under the General Bond Ordinance), will apply to the Bonds. Except for those provisions, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated in this Ordinance. Words and terms not otherwise defined in this Ordinance shall have the same meaning as set forth in the General Bond Ordinance.

**Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents.**

The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile

seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Bonds and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"). The Registrar shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance is authorized to sign and deliver, in the name and on behalf of the City, an agreement between the City and the Registrar (the "Registrar Agreement"), approved as to form and correctness by the Director of Law, providing for services relating to the registration, transfer, exchange and payment of the Bonds on terms approved by the Director of Finance on behalf of the City and consistent with this Ordinance and not substantially adverse to the City. That approval shall be conclusively evidenced by the signing of the Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). The person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the principal corporate trust office of the Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. Upon exchange or transfer the Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Registrar shall undertake the exchange or transfer of Bonds only after the new



Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer.

Notwithstanding any other provisions of this Ordinance, if it is determined by the Director of Finance to be advantageous to the City, the Bonds may be issued in book entry form in accordance with the provisions of this Section. As used in this Section and this Ordinance:

"Book entry form" or "book entry system" means a form or system under which (i) the ownership of beneficial interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Bonds "immobilized" in the custody of the Depository. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in those Bonds and that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in bonds or the principal and interest, and to effect transfers of bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depos-

itory, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Registrar, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and the Trustee and Registrar shall authenticate and deliver bond certificates in registered form to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed to the extent necessary or required to enter into any agreements determined necessary in connection with the book entry system for the Bonds, after determining that the signing thereof will not endanger the funds or securities of the City and after the approval of the form of any such agreement by the Director of Law.

#### **Section 4. Sale of Bonds.**

The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 16 hereof and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, the purchase price (which shall be not less than 97% of the principal amount of the Bonds plus any accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial

statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is further authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds, which shall be consistent with this Ordinance, not substantially adverse to the City, and approved by the Director of Finance and Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2011" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

#### **Section 5. Provision for Levying and Collecting Tax.**

For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

The tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, extended and collected. The tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from those tax levies shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as required by the General Bond Ordinance, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of principal of and interest on the Bonds when and as the same fall due; provided, however, that, subject to the provisions of Section 8 of the General Bond Ordinance, in each year to the extent that revenues are available from other sources for the payment of the Bonds and are appropriated for such pur-

pose, the amount of such tax shall be reduced by the amount of such revenues so available and appropriated.

This Council hereby covenants, on behalf of the City and its officials, pursuant to the authorization under Sections 133.25(B)(1) and 5705.51 of the Ohio Revised Code, and in accordance with the provisions of and to the extent required or permitted by the General Bond Ordinance, that the City will appropriate annually from the proceeds of the City's municipal income taxes an amount as is necessary to meet the annual debt charges for the Bonds.

**Section 6. Application of Proceeds.**

The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. The proceeds of the Bonds to be applied to pay costs of any Credit Support Instruments obtained pursuant to Section 15 hereof shall be paid to the provider or providers of those Credit Support Instruments. The proceeds of the Bonds to be used to pay costs of issuing the Bonds shall be deposited with the Registrar in a separate account under the Registrar Agreement pending their application to the payment of such costs. Pursuant to Chapter 133 of the Ohio Revised Code and this Ordinance, and notwithstanding Chapter 179 of the Codified Ordinances, any accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

**Section 7. General Obligation.**

The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

**Section 8. Defeasance.**

**(a) Release of Ordinance.** If the City shall pay or cause to be paid and discharged all the outstanding Bonds, or there shall otherwise be paid to the holders of the outstanding Bonds all debt charges due or to become due thereon, and provision shall also be made for paying all other sums payable hereunder, then and in that event this Ordinance (except for Section 8(b) hereof) shall cease to be of further effect, and the covenants, agreements and other obligations of the City under this Ordinance shall be discharged and satisfied, and thereupon the Trustee shall at the request of the City execute and deliver to the City such instruments in writing as shall discharge the lien hereof and enter on the record such discharge of the lien and such other instruments as may be reasonably required by the City.

**(b) Payment and Discharge of Bonds.** Outstanding Bonds shall be deemed to have been paid and dis-

charged within the meaning of this Ordinance, including without limitation, Section 8(a) hereof, if:

(i) the Escrow Agent or Paying Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, direct obligations of the United States certified by an independent public accounting firm of national reputation to be of such maturities and interest payment dates and to bear such interest, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (likewise to be held in trust and committed, except as hereinafter provided), as will be sufficient, together with moneys referred to in (i) above, for the payment, at their maturities or redemption dates, of all debt charges on the Bonds to their date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date then to the date of the tender of such payment; provided, that if any Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice. Any moneys held by the Escrow Agent in accordance with the provisions of this Section shall be invested by the Escrow Agent in direct obligations of the United States of America maturing, or redeemable at the option of the holder, at times and in amounts sufficient to meet payment of debt charges on the Bonds, as directed by the Director of Finance. Any income or interest earned by, or increment to, the investments held under this Section shall, to the extent determined from time to time by the Escrow Agent to be in excess of the amount required to be held by it for the purposes of this Section, be transferred at the time of such determination as provided in Section 17(a) of the General Bond Ordinance for unclaimed funds held by a Paying Agent. In the event of nonpresentation of any Bond as described in Section 17(a) of the General Bond Ordinance, the moneys held pursuant to this Section shall be held and paid as provided in said Section 17(a) for unclaimed funds held by a Paying Agent.

**Section 9. Bond Anticipation Notes.**

For the purpose of raising money in anticipation of the issuance of the Bonds for the purpose set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Fifteen Million One Hundred Fifty-Five Thousand Dollars (\$15,155,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

**(a) Terms of the Notes.** The Notes shall bear interest at such rate, not exceeding seven percent (7%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the

Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two years following the date of issuance of the Notes; shall be designated "Bridges and Roadways Improvement Bond Anticipation Notes"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semiannually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth month following their date of issuance, interest on the Notes shall be payable at maturity.

U.S. Bank National Association is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"). The Escrow Agent also shall act as paying agent for the Notes if the Notes are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, an agreement among the City, the Note Registrar and the Escrow Agent (the "Note Registrar Agreement") providing for services relating to the registration, transfer, exchange and payment of Notes on terms that are approved by the Director of Finance on behalf of the City. That approval shall be conclusively evidenced by the signing of the Note Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). The person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this Ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

Any Note may be exchanged for Notes of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. A Note may be transferred only on the Note Register upon presentation and surrender of the Note at the principal corporate trust office of the Note Registrar together with an assignment

signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. Upon exchange or transfer the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Note surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Note Registrar shall undertake the exchange or transfer of Notes only after the new Notes are signed by the authorized officers of the City. In all cases of Notes exchanged or transferred, the City shall sign and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Note Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Notes issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Notes surrendered upon that exchange or transfer.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes." The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

**(b) Execution and Payment of the Notes.** The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Each Note shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Notes shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Notes shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Notes and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

**(c) Sale of the Notes.** The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of

Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

**(d) Security for the Notes.** The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used for the retirement of the Notes at maturity, together with the interest thereon, and are hereby pledged for such purpose.

**Section 10. Provision for Levying and Collecting Tax.**

During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

**Section 11. Official Statement; Continuing Disclosure.**

If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Bonds, as the case may be, and any necessary supplements and to authorize the use and distribution of each Official Statement and any supplements. The Director of Finance is authorized to sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in the judgment of the Director of Finance, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and

Exchange Commission Rule 15c2-12 (the "SEC Rule"). The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

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

**Section 12. Miscellaneous.**

(a) Any provisions of the Codified Ordinances of the City that are inconsistent with the provisions of this Ordinance and the General Bond Ordinance shall not apply to the Bonds or the Notes authorized herein.

(b) All covenants, terms and provisions of the General Bond Ordinance are fully applicable to the Bonds and the Notes authorized herein, and nothing in this Ordinance shall be deemed to alter or restrict such full application of the General Bond Ordinance, except for the exclusion from application to the Bonds and the Notes authorized herein of the provisions of the third paragraph of Section 13(a) and the third paragraph of Section 4 of the General Bond Ordinance, pursuant to Section 2 hereof.

**Section 13. Captions.**

The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

**Section 14. Federal Tax Covenants.**

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (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.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for

the interest on the Notes and the 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 Notes and the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

Each covenant made in this Section with respect to the Notes and the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes or the 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 Notes and the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes and the Bonds.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such 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 amounts or payments, as determined by that officer, which action shall be in writing and signed by the 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 Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

#### **Section 15. Credit Enhancement and Ratings.**

If, in the judgment of the Director of Finance, based on the written advice of a Financial Advisor, the filing of an application for a rating on the Bonds or designated portion thereof by one or more nationally recognized rating agencies is in the best interest of the City, the Director of Finance is authorized to prepare and submit those applications and to provide to each such agency such information as may be required for the purpose. The Director of Finance is authorized to contract for one or more Credit Support Instruments for the Bonds or designated portions thereof if the Director determines, based on the written advice of a Financial Advisor, that the Credit Support Instruments will result in debt service savings to the City. As used in this Section, "Credit Support Instrument" means an insurance policy, surety, letter of credit, or other instrument used to enhance or provide for the security of Bonds. The cost of obtaining each rating and the cost of obtaining each Credit Support Instrument, except to the extent paid by the Original Purchasers in accordance with the Bond Purchase Agreement, shall be paid from the proceeds of Bonds or funds appropriated for that purpose.

#### **Section 16. Financial Advisor.**

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

#### **Section 17. Open Meeting Determination.**

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

#### **Section 18. Findings and Recitals of Validity.**

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

#### **Section 19. Delivery to County.**

The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the appropriate official of the County of Cuyahoga, Ohio and to secure a receipt therefor.

#### **Section 20. Severability.**

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

#### **Section 21. Legislative Intent.**

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

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

#### **Section 22. Emergency Measure.**

This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Passed February 14, 2011.

Effective February 18, 2011.

#### **Ord. No. 134-11.**

**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 the State of Ohio Emergency Management Agency, or a designated entity, for the 2010 Urban Area Security Initiative Program; authorizing one or more requirement and standard contracts for the purchase of materials, equipment, supplies, and services;**

**authorizing one or more agreements with governmental entities; and to employ one or more professional consultants to implement the program.**

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

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

**Section 1.** That the Director of Public Safety is authorized to apply for and accept a grant in the approximate amount of \$5,094,390, and any other funds that become available, from the State of Ohio Emergency Management Agency, or a designated entity, to conduct the 2010 Urban Area Security Initiative ("UASI") Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the grant agreement for the grant contained in the file described below.

**Section 2.** That the grant agreement for the grant, File No. 134-11-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 and shall not be changed without additional legislative authority, is approved in all respects.

**Section 3.** That the Director of Public Safety is authorized to make one or more written standard purchase contracts and written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, during the grant term, of materials, equipment, supplies, and services needed to implement the program 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.

**Section 4.** That the costs of the requirement contract 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 5.** That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative arrangements with other governmental agencies. The Director of Public Safety may sign all documents that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

**Section 6.** That The Director of Public Safety is authorized to enter into one or more agreements with governmental entities to implement the program as described in the file.

**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 program 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 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 9.** That the cost of the contract or contracts shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance.

**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 February 14, 2011.

Effective February 18, 2011.

**Ord. No. 136-11.  
By Council Member Sweeney (by departmental request).**

**An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$14,230,000 for the purpose of providing funds to improve buildings and structures housing and providing for the discharge of governmental functions and services otherwise benefiting the public safety, health and welfare and authorizing related matters.**

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Fourteen Million Two Hundred Thirty Thousand Dollars (\$14,230,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1 of this ordinance (this "Ordinance"); and

Whereas, the Director of Finance, as fiscal officer of this City, has previously certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five years and that the maximum maturity of the Bonds is 18 years, as evidenced by the Certificate contained in File No. 136-11-A; and

Whereas, this Council passed Ordinance No. 1749-80 on October 8, 1980, and thereafter amended that ordinance by Ordinance No. 1112-83, passed May 6, 1983, and Ordinance No. 944-96, passed June 10, 1996 (Ordinance No. 1749-80, as so amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"), providing the general terms and provisions for the issuance of unvoted general obligations of the City, with the specific terms of each series of Bonds to be contained in ordinances authorizing the issuance of Bonds in accordance with the provisions thereof (the "Series Bond Ordinances"); and

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

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

**Section 1. Purpose.**

It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Fourteen Million Two Hundred Thirty Thousand Dollars (\$14,230,000) for the purpose of providing funds for constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving buildings and structures housing and providing for the discharge of governmental functions and services otherwise benefiting the public safety, health and welfare, including facilities in, of and for the City Hall, police stations, fire stations, service stations, centers and facilities, waste collection, market facilities, transfer and disposal facilities, correctional facilities, and health and other facilities, and the provision of necessary fixtures, furnishings, equipment, appurtenances, utilities, and site improvements for the purpose, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Ohio Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

**Section 2. Authority and Terms.**

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Chapter 133 of the Ohio Revised Code and other applicable provisions of the Ohio Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance for the purpose stated in Section 1 hereof. The Bonds shall be designated "Public Facilities Improvement Bonds" and may contain such further designation as provided in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be issued in the principal amount specified in the Certificate of Award, which shall not exceed the amount stated in Section 1 hereof. The Bonds shall be dated the date and shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable when due, or until the principal amount is paid, semiannually as specified in the Certificate of

Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning on the date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature in the years and principal amounts as shall be permitted by law and determined by the Director of Finance and specified in the Certificate of Award, based on the written advice of a Financial Advisor to be in the best interests of the City, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than November 15, 2011 and no later than December 31, 2013, (iii) the final maturity date of the Bonds shall be no later than 18 years from that date which is 12 months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

The Bonds stated to mature in any year may be issued as term bonds (the "Term Bonds"), payable pursuant to Mandatory Sinking Fund Redemption Requirements as defined and further described below. The Director of Finance shall determine in the Certificate of Award whether any of the Bonds shall be issued as Term Bonds, any dates (the "Mandatory Redemption Dates") on which the principal amount of the Term Bonds shall be payable pursuant to mandatory sinking fund installments rather than at stated maturity and the amount of principal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements").

The Bonds shall be subject to redemption or purchase prior to stated maturity as follows:

**(a) Mandatory Sinking Fund Redemption.** If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory sinking fund redemption and be redeemed pursuant to Mandatory Sinking Fund Redemption Requirements, at a redemption price of 100% of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the Escrow Agent, currently The Huntington National Bank, for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Registrar (as defined in Section 3 hereof) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, set-

ting forth the extent of the credit to be applied with respect to the then-current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) also shall be received by the City for any Term Bonds that prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and cancelled by the Registrar, to the extent not applied theretofore as a credit against any mandatory redemption obligation.

Each Term Bond so delivered, or previously redeemed, or purchased and cancelled, shall be credited by the Escrow Agent at 100% of the principal amount thereof against the then-current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation). Any excess of that amount over the then-current Mandatory Sinking Fund Redemption Requirement shall be credited against subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations) in the order directed by the Director of Finance.

**(b) Optional Redemption.** The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, on the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. The first optional redemption date shall not be later than ten years from the first Interest Payment Date, and the highest redemption price shall not be greater than 102% of the principal amount redeemed plus accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for some or all of the Bonds not to be callable prior to their stated maturity.

If optional redemption at a price exceeding 100% of the principal amount to be redeemed is to take place as of any applicable Mandatory Redemption Date, the Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Bonds to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements of paragraph (a). The Bonds shall be redeemed pursuant to this paragraph only upon written notice from the Director of Finance to the Registrar. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. There shall be deposited with the Registrar on or prior to the redemption date funds sufficient to redeem at the redemption price all of the redeemable Bonds for which notice of redemption has been given.

**(c) Purchase in Lieu of Redemption.** If and to the extent provided in the Certificate of Award, the City may elect to purchase Bonds called for optional redemption in lieu of redeeming those Bonds. That election shall be exercised by written direction from the Director of Finance to the Registrar and the Escrow Agent. That written direction shall state whether all or less than all of the Bonds called for optional redemption are to be purchased by the City in lieu of redemption, shall identify the Bonds to be purchased by their maturity date and shall specify the principal amount of each maturity to be purchased in lieu of redemption. If less than all of the Bonds called for optional redemption are to be purchased in lieu of redemption, the amount of each maturity to be purchased shall be in amounts of \$5,000 or integral multiples of \$5,000. Any Bonds called for optional redemption that are not to be purchased shall be redeemed in accordance with their redemption provisions. The purchase price of the Bonds to be purchased in lieu of redemption shall be equal to the principal of, any accrued but unpaid interest on, and any premium that would have been payable on the Bonds on the redemption date if the Bonds had been optionally redeemed instead of being purchased. No notice of the purchase in lieu of redemption is required to be given to the owners of the Bonds in addition to the notice of redemption required by this Ordinance. The Escrow Agent or Registrar, as paying agent, shall not purchase Bonds if sufficient moneys have not been deposited with the Escrow Agent or Registrar, as paying agent, by the City for the purpose. On or prior to the scheduled date for optional redemption, the City may rescind its direction to purchase the Bonds in lieu of redemption by written notice from the Director of Finance to the Registrar and the Escrow Agent. In the event that the direction to purchase is rescinded, the Bonds shall be redeemed on the redemption date set forth in the notice of redemption delivered to the owners of the Bonds and in accordance with the provisions of this Ordinance.

**(d) Partial Redemption or Purchase.** If fewer than all of the outstanding Bonds are called for redemption at one time (whether for redemption or purchase in lieu of redemption), they shall be called in the order of maturities directed by the Director of Finance. If fewer than all Bonds of a single maturity are to be redeemed or purchased in lieu of redemption, the selection of Bonds to be redeemed or purchased, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Registrar by lot in a manner determined by the Registrar. In the case of a partial redemption or purchase of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Registrar (i) for payment of the redemption or purchase price of the \$5,000 unit or units called for redemption (including, without limitation, the interest accrued to the date fixed for redemp-

tion and any premium), and (ii) for issuance, without charge to the registered owner thereof, of a new Bond or Bonds of any authorized denomination or denominations in an aggregate principal amount equal to the unmaturing portion of the Bond not redeemed or purchased and bearing interest at the same rate and maturing on the same date as the Bond surrendered.

**(e) Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption (or such period specified in the Certificate of Award), to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any provider of a Credit Support Instrument (as defined in Section 15 hereof) for the Bonds or designated portions thereof. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond. Any notice of redemption of any Bonds may specify that the redemption is contingent on the deposit of moneys with the Escrow Agent or Registrar, as paying agent, on or prior to the redemption date in an amount sufficient to pay the redemption price of the Bonds to be redeemed.

**(f) Payment of Redeemed Bonds.** Notice having been mailed in the manner provided in the preceding paragraph, and moneys having been deposited by the City with the Escrow Agent or Registrar, as paying agent, in an amount sufficient to pay the redemption price, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender at the place or places specified in that notice, shall be paid. If money for the redemption of all of the Bonds and portions thereof to be redeemed, including interest accrued to the redemption date, is held by the Registrar on the redemption date, and, if notice of redemption has been deposited in the mail, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If that money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All money held by the Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Reg-

istrar or Escrow Agent as paying agent. Principal shall be payable when due upon presentation and surrender of the Bonds at the principal corporate trust office of the Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register (as defined in Section 3 hereof) at the close of business on the date provided in the Registrar Agreement authorized and defined in Section 3 hereof (the "Record Date"). Notwithstanding any contrary provision in the General Bond Ordinance, so long as the Bonds are held by a Depository in a book entry system (as described in Section 3 hereof), debt charges on the Bonds will be payable in lawful money of the United States by wire transfer to the Depository made by the Escrow Agent on each Interest Payment Date.

This Series Bond Ordinance is enacted pursuant to the General Bond Ordinance. The General Bond Ordinance, except for the third paragraph of Section 13(a) (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 (pertaining generally to the periods during which the City is not required to make any transfers or exchanges of bonds issued under the General Bond Ordinance), will apply to the Bonds. Except for those provisions, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated in this Ordinance. Words and terms not otherwise defined in this Ordinance shall have the same meaning as set forth in the General Bond Ordinance.

#### **Section 3. Execution,**

Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Bonds and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"). The Registrar shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance is authorized to sign and deliver, in the name and on behalf of the City, an agreement between the City and the Registrar (the "Registrar Agreement"), approved as to form and correctness by the Director of Law, providing for services relating to the registration, transfer, exchange and payment of the Bonds on terms approved by the Director of Finance on behalf of the City and consistent with this

Ordinance and not substantially adverse to the City. That approval shall be conclusively evidenced by the signing of the Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). The person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the principal corporate trust office of the Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar. Upon exchange or transfer the Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner, except that the City and Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer.

Notwithstanding any other provisions of this Ordinance, if it is determined by the Director of Finance to be advantageous to the City, the Bonds may be issued in book entry form in accordance with the provisions of this Section. As used in this Section and this Ordinance:

"Book entry form" or "book entry system" means a form or system under which (i) the ownership of beneficial interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Bonds "immobilized" in the custody of the Depository. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in those Bonds and that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in bonds or the principal and interest, and to effect transfers of bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Registrar, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and the Trustee and Registrar shall authenticate and deliver bond certificates in registered form to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed to the extent necessary or required to enter into any agreements determined necessary in connection with the book entry system for the Bonds, after determining that the signing thereof will not endanger the funds or securities of the City and after the approval of the form of any such agreement by the Director of Law.

#### **Section 4. Sale of Bonds.**

The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 16 hereof and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, the purchase price (which shall be not less than 97% of the principal amount of the Bonds plus any accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is further authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds, which shall be consistent with this Ordinance, not substantially adverse to the City, and approved by the Director of Finance and Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond

Purchase Agreement by the Director of Finance. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2011" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

#### **Section 5. Provision for Levying and Collecting Tax.**

For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

The tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, extended and collected. The tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from those tax levies shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as required by the General Bond Ordinance, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of principal of and interest on the Bonds when and as the same fall due; provided, however, that, subject to the provisions of Section 8 of the General Bond Ordinance, in each year to the extent that revenues are available from other sources for the payment of the Bonds and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such revenues so available and appropriated.

This Council hereby covenants, on behalf of the City and its officials, pursuant to the authorization under Sections 133.25(B)(1) and 5705.51 of the Ohio Revised Code, and in accordance with the provisions of and to the extent required or permitted by the General Bond Ordinance, that the City will appropriate annually from the proceeds of the City's municipal income taxes an amount as is necessary to meet the annual debt charges for the Bonds.

#### **Section 6. Application of Proceeds.**

The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. The proceeds of the Bonds to be applied to pay costs of any Credit Support Instruments obtained pur-



suant to Section 15 hereof shall be paid to the provider or providers of those Credit Support Instruments. The proceeds of the Bonds to be used to pay costs of issuing the Bonds shall be deposited with the Registrar in a separate account under the Registrar Agreement pending their application to the payment of such costs. Pursuant to Chapter 133 of the Ohio Revised Code and this Ordinance, and notwithstanding Chapter 179 of the Codified Ordinances, any accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

#### **Section 7. General Obligation.**

The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

#### **Section 8. Defeasance.**

**(a) Release of Ordinance.** If the City shall pay or cause to be paid and discharged all the outstanding Bonds, or there shall otherwise be paid to the holders of the outstanding Bonds all debt charges due or to become due thereon, and provision shall also be made for paying all other sums payable hereunder, then and in that event this Ordinance (except for Section 8(b) hereof) shall cease to be of further effect, and the covenants, agreements and other obligations of the City under this Ordinance shall be discharged and satisfied, and thereupon the Trustee shall at the request of the City execute and deliver to the City such instruments in writing as shall discharge the lien hereof and enter on the record such discharge of the lien and such other instruments as may be reasonably required by the City.

**(b) Payment and Discharge of Bonds.** Outstanding Bonds shall be deemed to have been paid and discharged within the meaning of this Ordinance, including without limitation, Section 8(a) hereof, if:

(i) the Escrow Agent or Paying Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or subaccounts, in trust for and irrevocably committed solely thereto, direct obligations of the United States certified by an independent public accounting firm of national reputation to be of such maturities and interest payment dates and to bear such interest, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (likewise to be held in trust and committed, except as hereinafter provided), as will be sufficient, together with moneys referred to in (i) above,

for the payment, at their maturities or redemption dates, of all debt charges on the Bonds to their date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date then to the date of the tender of such payment; provided, that if any Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice. Any moneys held by the Escrow Agent in accordance with the provisions of this Section shall be invested by the Escrow Agent in direct obligations of the United States of America maturing, or redeemable at the option of the holder, at times and in amounts sufficient to meet payment of debt charges on the Bonds, as directed by the Director of Finance. Any income or interest earned by, or increment to, the investments held under this Section shall, to the extent determined from time to time by the Escrow Agent to be in excess of the amount required to be held by it for the purposes of this Section, be transferred at the time of such determination as provided in Section 17(a) of the General Bond Ordinance for unclaimed funds held by a Paying Agent. In the event of nonpresentation of any Bond as described in Section 17(a) of the General Bond Ordinance, the moneys held pursuant to this Section shall be held and paid as provided in said Section 17(a) for unclaimed funds held by a Paying Agent.

#### **Section 9. Bond Anticipation Notes.**

For the purpose of raising money in anticipation of the issuance of the Bonds for the purpose set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Fourteen Million Two Hundred Thirty Thousand Dollars (\$14,230,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

**(a) Terms of the Notes.** The Notes shall bear interest at such rate, not exceeding seven percent (7%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two years following the date of issuance of the Notes; shall be designated "Public Facilities Improvement Bond Anticipation Notes"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semiannually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth month following their

date of issuance, interest on the Notes shall be payable at maturity.

U.S. Bank National Association is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"). The Escrow Agent also shall act as paying agent for the Notes if the Notes are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, an agreement among the City, the Note Registrar and the Escrow Agent (the "Note Registrar Agreement") providing for services relating to the registration, transfer, exchange and payment of Notes on terms that are approved by the Director of Finance on behalf of the City. That approval shall be conclusively evidenced by the signing of the Note Registrar Agreement by the Director of Finance. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). The person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this Ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

Any Note may be exchanged for Notes of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. A Note may be transferred only on the Note Register upon presentation and surrender of the Note at the principal corporate trust office of the Note Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Note Registrar. Upon exchange or transfer the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Note surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Note Registrar shall undertake the exchange or transfer of Notes only after the new Notes are signed by the authorized officers of the City. In all cases of Notes exchanged or transferred, the City shall sign and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of this Ordinance. The exchange or

transfer shall be without charge to the owner, except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Note Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Notes issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Notes surrendered upon that exchange or transfer.

Pursuant to Section 133.30(B) of the Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes." The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

**(b) Execution and Payment of the Notes.** The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Each Note shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Notes shall be signed by the City's Mayor and by the City's Director of Finance, and, consistent with Section 133.27 of the Ohio Revised Code and notwithstanding Section 177.02 of the Codified Ordinances of the City, either or both of those signatures may be a facsimile. The Notes shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law shall prepare the Notes and shall endorse thereon his approval of the form and correctness thereof by his manual or facsimile signature.

**(c) Sale of the Notes.** The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

**(d) Security for the Notes.** The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used for the retirement of the Notes at maturity, together with the interest thereon, and are hereby pledged for such purpose.

**Section 10. Provision for Levying and Collecting Tax.**

During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

**Section 11. Official Statement; Continuing Disclosure.**

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

For the benefit of the holders and beneficial owners from time to time of the Notes or the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and

thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

**Section 12. Miscellaneous.**

(a) Any provisions of the Codified Ordinances of the City that are inconsistent with the provisions of this Ordinance and the General Bond Ordinance shall not apply to the Bonds or the Notes authorized herein.

(b) All covenants, terms and provisions of the General Bond Ordinance are fully applicable to the Bonds and the Notes authorized herein, and nothing in this Ordinance shall be deemed to alter or restrict such full application of the General Bond Ordinance, except for the exclusion from application to the Bonds and the Notes authorized herein of the provisions of the third paragraph of Section 13(a) and the third paragraph of Section 4 of the General Bond Ordinance, pursuant to Section 2 hereof.

**Section 13. Captions.**

The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

**Section 14. Federal Tax Covenants.**

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (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.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes and the 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 Notes and the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

Each covenant made in this Section with respect to the Notes and the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes or the 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 Notes and the Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes and the Bonds.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such 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 amounts or payments, as determined by that officer, which action shall be in writing and signed by the 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 Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

**Section 15. Credit Enhancement and Ratings.**

If, in the judgment of the Director of Finance, based on the written advice of a Financial Advisor, the filing of an application for a rating on the Bonds or designated portion thereof by one or more nationally recognized rating agencies is in the best interest of the City, the Director of Finance is authorized to prepare and submit those applications and to provide to each such agency such information as may be required for the purpose. The Director of Finance is authorized to contract for one or more Credit Support Instruments for the Bonds or designated portions thereof if the Director determines, based on the written advice of a Financial Advisor, that the Credit Support Instruments will result in debt service savings to the City. As used in this Section, "Credit Support Instru-

ment" means an insurance policy, surety, letter of credit, or other instrument used to enhance or provide for the security of Bonds. The cost of obtaining each rating and the cost of obtaining each Credit Support Instrument, except to the extent paid by the Original Purchasers in accordance with the Bond Purchase Agreement, shall be paid from the proceeds of Bonds or funds appropriated for that purpose.

**Section 16. Financial Advisor.**

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

**Section 17. Open Meeting Determination.**

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

**Section 18. Findings and Recitals of Validity.**

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

**Section 19. Delivery to County.**

The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the appropriate official of the County of Cuyahoga, Ohio and to secure a receipt therefor.

**Section 20. Severability.**

Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such pro-

visions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

**Section 21. Legislative Intent.**

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

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

**Section 22. Emergency Measure.**

This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Passed February 14, 2011.

Effective February 18, 2011.

**Ord. No. 185-11.  
By Council Members Cleveland and Sweeney (by departmental request).**

**An emergency ordinance to amend Sections 1 and 2 of Ordinance No. 770-09, passed June 8, 2009, relating to applying for and accepting a grant from Living Cities for the Reimagining and Re-using Vacant Land in Cleveland Program and authorizing implementing contracts; to supplement the ordinance by adding new Section 4, and renumbering existing Sections 4 and 5 to new Sections 5 and 6.**

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

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

**Section 1.** That Sections 1 and 2 of Ordinance No. 770-09, passed June 8, 2009, are amended to read as follows:

**Section 1.** That the Director of City Planning is authorized to apply for and accept a grant in the approximate amount of \$300,000, and any other funds that become available during the grant term from Living Cities to conduct the Reimagining and Re-using Vacant Land in Cleveland 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 award letter and in the e-mail from Dave Lafleur of Living Cities, dated November 29, 2010, and letter from Chris Warren dated November 15, 2010, for the grant contained in the file described below.

Section 2. That the award letter for the grant and the e-mail from Dave Lafleur of Living Cities, dated November 29, 2010, and letter from Chris Warren dated November 15, 2010, File No. 770-09-A and 770-09-B, 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, are approved in all respects and shall not be changed without additional legislative authority.

**Section 2.** That existing Sections 1 and 2 of Ordinance No. 770-09, passed June 8, 2009, are repealed.

**Section 3.** That Ordinance No. 770-09, passed June 8, 2009, is supplemented by adding new Section 4 to read as follows:

Section 4. That the Director of City Planning is authorized to enter into an amendment to the contract with Stephanie Howse, entered into under Ordinance No. 770-09, to include managing and preparing all reports for the Cleveland Opportunity Corridor Brownfield Area Wide Planning Pilot Program, and expiring May 31, 2011.

**Section 4.** That existing Sections 4 and 5 of Ordinance No. 770-09, passed June 8, 2009, are renumbered to new "Section 5" and "Section 6".

**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 February 14, 2011.

Effective February 14, 2011.

**Ord. No. 204-11.**  
By Council Members Zone, Polensek, Miller, Cleveland and Sweeney (by departmental request).

**An emergency ordinance giving final consent of the City of Cleveland to the State of Ohio for the rehabilitation and replacement of concrete retaining walls at Norfolk and Southern Railroad Bridge over Madison Avenue and CSX Railroad Bridge over Nottingham Road; and authorizing the Director of Capital Projects to enter into contracts with the State of Ohio.**

Whereas, under Ordinance No. 319-09, passed March 16, 2009, this Council authorized the City of Cleveland to cooperate with the Director of Transportation for the rehabilitation and replacement of concrete retaining walls at Norfolk and Southern Railroad Bridge over Madison Avenue and CSX Railroad Bridge over Nottingham Road, including drainage system installation, curb and sidewalk replacement, and minor roadway work (the "Improvement"); and

Whereas, the City shall cooperate with the Ohio Director of Transportation in the above described project by assuming and bearing one hundred percent (100%) of the entire cost of the Improvement, less the amount of Federal-aid funds set aside by the Director of Transportation and NOACA for the financing of this Improvement from funds allocated by the Federal Highway Administration,

U.S. Department of Transportation; and

Whereas, the share of the City's cost of the Improvement is now estimated to be \$683,100.00 but may be adjusted when the percentages of actual costs are determined; and

Whereas, the Ohio Director of Transportation has approved the legislation proposing cooperating and has caused to be made plans and specifications and an estimate of costs and expense for the Improvement and has transmitted copies of the same to this legislative authority; and

Whereas, the City desires the Ohio Director of Transportation to proceed with the Improvement; 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 this Council requests the Ohio Director of Transportation to proceed with the Improvement.

**Section 2.** That the Director of Capital Projects is empowered on behalf of the City to enter into contracts with the Ohio Department of Transportation's ("ODOT's") pre-qualified consultants for the preliminary engineering phase of the Project and to enter into contracts with the Director of Transportation necessary to complete the Improvement. Upon the request of ODOT, the Director of Capital Projects is also empowered to assign all rights, title, and interests of the City to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

**Section 3.** That, under Ordinance No. 319-09, passed March 16, 2009, this Council authorized payment to the State of the City's share of the Improvement, payable from subordinate lien income tax bonds of the City of Cleveland authorized by Ordinance No. 459-10, and from Fund Nos. 20 SF 380, 20 SF 383, 20 SF 394, 20 SF 500, 20 SF 506, 20 SF 510, 20 SF 520, 20 SF 528, 20 SF 534, Request No. RQS 4004, RL 2011-25.

**Section 4.** That the Clerk of Council is authorized and directed to transmit to the State three (3) certified copies of this ordinance immediately on its taking effect, and it shall become the basis for proceeding with the Improvement.

**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 February 14, 2011.

Effective February 14, 2011.

**Ord. No. 206-11.**  
By Council Members Conwell and Sweeney (by departmental request).

**An emergency ordinance authorizing the Director of Public Safety to enter into an agreement with the United States Navy, or its designee, to receive and display the bell, or other memorabilia, of the United States naval warship, the USS Cleveland, following decommissioning on or about September 30, 2011, for a period of five**

**years, with one five-year option to renew, exercisable by the Director of Public Safety.**

Whereas, the USS Cleveland (LPD-7) was placed in commission on April 21, 1967, at Norfolk, Virginia; and

Whereas, after commissioning, the USS Cleveland changed its homeport to San Diego, California, became a member of the Pacific Fleet's Amphibious force, and performed a wide variety of missions in both the Eastern and Western Pacific; and

Whereas, the USS Cleveland has had a proud and honorable 35-year history beginning in 1967, where she first saw action during the TET Offensive and later assisted in the mine-clearing efforts of Haiphong Harbor and Operation End Sweep following the Vietnam War cease fire; and

Whereas, hallmarking her diversity and professionalism, from November 1988 through 2000, the USS Cleveland was assigned duties as the Third Fleet flagship, assisted with the Exxon Valdez disaster, deployed to Operation Desert Shield and Operation Desert Storm, supported law enforcement operations in Central America, became the first LPD to embark an SH-60 Seahawk helicopter, played a key role in the largest maritime cocaine seizure to date involving the "Sea Chariot", participated in United Nations relief efforts in Rwanda, participated in the relocation of the U.S. Liaison office from Mogadishu, Somalia, assisted in the North Persian Gulf with Operation Vigilant Warrior, and participated in the recovery and salvage efforts of Alaska Airlines Flight 261; and

Whereas, in her 35 years of service, the USS Cleveland has received two Combat Action Ribbons, the Joint Meritorious Unit Award, the Navy Unit Commendation, three Meritorious Unit Commendations, eight Navy Excellence Ribbons, three Armed Forces Expeditionary Medals, twenty-three Vietnam Service Medals, the Southwest Asia Service Medal, the Humanitarian Service Medal, the Coast Guard Unit Commendation with Operational Distinguishing Device, and three Vietnam Gallantry Cross Unit Citations; and

Whereas, the USS Cleveland will continue on active duty until decommissioned on or about September 30, 2011; and

Whereas, part of the ship's inventory is the bronze bell which once may have been onboard an earlier USS Cleveland warship, the USS Cleveland (CL-55, 1942 to 1960), and quite possibly the first USS Cleveland (Cruiser 19, later PG-33 and CL-21, 1903 to 1030); and

Whereas, the City of Cleveland, Ohio, would like to have the bell designated to our City so that we may display it, or other memorabilia from the USS Cleveland, in a prominent and secure location to be viewed by our citizens and visitors to honor and celebrate the proud history of the USS Cleveland; and

Whereas, the somber decommissioning of the USS Cleveland may mark the end of a line of United States ships named Cleveland, and it would be fitting and appropriate that the bell, or other memorabilia, be entrusted to the citizens of the City of Cleveland, Ohio, when, and if, a new USS Cleveland is commissioned; and

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

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

Section 1. That the Director of Public Safety is authorized to enter into an agreement with the United States Navy, or its designee, to receive and display the bell, or other memorabilia, of the United States naval warship, the USS Cleveland (LPD-7), following decommissioning on or about September 30, 2011, for a period of five years, with one five-year option to renew, exercisable by the Director of Public Safety. If the Director of Public Safety exercises the option to renew, then he or she shall notify this Council of that action.

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 February 14, 2011. Effective February 14, 2011.

Ord. No. 208-11. By Council Member Sweeney.

An emergency ordinance authorizing the Clerk of Council to enter into an agreement with Sean Balewski for professional services to assist with legislative and various Council matters for Cleveland City Council.

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 authorized to enter into an agreement with Sean Balewski for profes-

sional services to assist with legislative and various Council matters for Cleveland City Council. This agreement shall be entered into as of February 22, 2011 and shall terminate May 6, 2011. The agreement shall be certified for \$6,000.00 from fund number 01, subfund 001, account 6320.

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 February 14, 2011. Effective February 18, 2011.

Ord. No. 229-11. By Council Members Westbrook and Zone.

An emergency ordinance approving the issuance of a permit for the Hermes Cleveland 10 Miler, on April 23, 2011, sponsored by Hermes Sports & Events Inc.

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 411.06 of the Codified Ordinances of Cleveland, Ohio 1976, this Council consents to and approves the holding of the Hermes Cleveland 10 Miler, sponsored by Hermes Sports & Events, Inc. on April 23, 2011, Start: Edgewater Park, exit park west up bike path to West Blvd., south on West Blvd. to Lake, Lake west to West 117th then into the City of Lakewood, returning from Lakewood east on Lake to

Detroit, east on Detroit to West 76th, north on West 76th to Father Caruso Drive, east on Father Caruso to tunnel to Edgewater park and finish, provided that the applicant sponsor shall meet all the requirements of Section 411.05 of the Codified Ordinances of Cleveland, Ohio, 1976. Streets may be closed as determined by the Chief of Police and safety forces as may be necessary in order to protect the participants in the event. Said permit shall further provide that the City of Cleveland shall be fully indemnified from any and all liability resulting from the issuance of the same, to the extent and in form satisfactory to the Director of Law.

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 February 14, 2011. Effective February 18, 2011.

COUNCIL COMMITTEE MEETINGS

Thursday, February 17, 2011 9:00 a.m.

Community and Economic Development Committee: COMMUNITY DEVELOPMENT BLOCK GRANT BUDGET HEARINGS. Present: Brancatelli, Chair; Dow, Vice Chair; Cimperman, J. Johnson, Miller, Pruitt, Westbrook, Zone. Authorized Absence: Cummins.

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