

The City Record

Official Publication of the City of Cleveland

June the Third, Nineteen Hundred and Ninety-Eight

Mayor	
Michael R. White	
President of Council	
Jay Westbrook	
Clerk of Council	
Artha Woods	
Ward	Name
1	Joseph T. Jones
2	Robert J. White
3	Odelia V. Robinson
4	Kenneth L. Johnson
5	Frank G. Jackson
6	Patricia J. Britt
7	Fannie M. Lewis
8	William W. Patmon
9	Craig E. Willis
10	Roosevelt Coats
11	Michael D. Polensek
12	Edward W. Rybka
13	Joe Cimperman
14	Nelson Cintron, Jr.
15	Merle R. Gordon
16	Larry Moran
17	Timothy J. Melena
18	Jay Westbrook
19	Joseph J. Zone
20	Martin J. Sweeney
21	Michael A. Dolan

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL—LEGISLATIVE President of Council—Jay Westbrook

Ward	Name	Residence	
1	Joseph T. Jones	15601 Lotus Drive	44128
2	Robert J. White	3760 East 126th Street	44105
3	Odelia V. Robinson	3448 East 123rd Street	44120
4	Kenneth L. Johnson	2948 Hampton Road	44120
5	Frank G. Jackson	2327 East 38th Street	44115
6	Patricia J. Britt	12402 Britton Drive	44120
7	Fannie M. Lewis	7416 Star Avenue	44103
8	William W. Patmon	867 East Boulevard	44108
9	Craig E. Willis	11906 Beulah Avenue	44106
10	Roosevelt Coats	1775 Cliffview Road	44112
11	Michael D. Polensek	17855 Brian Avenue	44119
12	Edward W. Rybka	6832 Indiana Avenue	44105
13	Joe Cimperman	1428 Fairfield Avenue	44113
14	Nelson Cintron, Jr.	3032 Vega Avenue	44113
15	Merle R. Gordon	1813 Tampa Avenue	44109
16	Larry Moran	3584 West 46th Street	44102
17	Timothy J. Melena	6109 West Clinton Avenue	44102
18	Jay Westbrook	10513 Clifton Boulevard	44102
19	Joseph J. Zone	3323 West 130th Street	44111
20	Martin J. Sweeney	3632 West 133rd Street	44111
21	Michael A. Dolan	16519 West Park Road	44111
	Clerk of Council—Artha Woods, 216 City Hall, 664-2840. First Assistant Clerk—Sandra Franklin.		
MAYOR—Michael R. White			
LaVonne Sheffield-McClain, Chief of Staff, Executive Assistant for Policy			
Barry Withers, Executive Assistant for Administration			
Judith Zimomra, Executive Assistant for Service			
Kenneth Silliman, Executive Assistant for Economic Development			
Laura Ann Williams, Director, Office of Equal Opportunity			
Milan T. Polacek, Executive Assistant for Legislative Affairs			
DEPT. OF LAW – Sylvester Summers, Jr., Director, Lessie M. Milton, Chief Counsel, Room 106			
George A. Pace, Jr., Chief Asst. Prosecutor; Criminal Branch – Justice Center, 8th Flr., Court Towers, 1200 Ontario Street			
Karen E. Martines, Law Librarian, Room 100			
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Assessments and Licenses – Robert J. Schneider, Commissioner, Room 122			
Purchases and Supplies – William A. Moon, Commissioner, Room 128			
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DIVISIONS – 1201 Lakeside Avenue			
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Water Pollution Control – Darnell Brown, Commissioner			
Utilities Fiscal Control – Morry Blech, Commissioner			
Cleveland Public Power – James F. Majer, Commissioner			
Street Lighting Bureau – Frank Schilling, Acting Chief.			
DEPT. OF PORT CONTROL – LaVonne Sheffield-McClain, Acting Director, Cleveland Hopkins International Airport, 5300 Riverside Drive;			
Cleveland Hopkins International Airport – Stephen Sheehan, Commissioner			
Burke Lakefront Airport – Michael C. Barth, Commissioner			
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Streets – Randell T. Scott, Commissioner, Room 25			
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Architecture – Kenneth Nobilio, Commissioner, Room 517			
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Environment – Eric Myles, Acting Commissioner, Mural Building, 1925 St. Clair Avenue			
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Fire – Kevin G. Gerrity, Chief, 1645 Superior Avenue			
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Emergency Medical Service – Bruce Shade, Commissioner, 1708 South Pointe Drive			
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DIVISIONS – Convention Center & Stadium – James Glending, Commissioner, Public Auditorium, E. 6th and Lakeside Ave.			
Property Management – Vernon Robinson, Commissioner, East 49th & Harvard			

Parking Facilities – Alfred T. Miller, Jr., Acting Commissioner, Public Auditorium, E. 6th and Lakeside Ave.

Park Maintenance and Properties – Richard L. Silva, Acting Commissioner, Public Auditorium – E. 6th & Lakeside.

Recreation – Michael Cox, Acting Commissioner, Room 8

Research, Planning & Development – Mark Fallon, Commissioner, 1501 N. Marginal Road, Burke Lakefront Airport

DEPT. OF COMMUNITY DEVELOPMENT – Terri Hamilton, Director, 3rd Floor, City Hall.

DIVISIONS – Administrative Services – Terrence Ross, Commissioner. Neighborhood Services – Louise V. Jackson, Commissioner. Neighborhood Development – Terri Hamilton, Commissioner. Building & Housing – Lisa Thomas, Commissioner, 5th Floor, City Hall.

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Joseph Nolan, Director, Room 121

DEPT. OF ECONOMIC DEVELOPMENT – Christopher P. Warren, Director, Room 210

DEPT. OF AGING – Susan E. Axelrod, Director, Room 122

COMMUNITY RELATIONS BOARD – Room 11, Cornell P. Carter, Acting Director; Mayor Michael R. White, Chairman Ex-Officio; Mary Adele Springman, Vice-Chairman; Councilmen Michael Polensek and Edward Rybka, City Council Representatives; Muqit Abdul Sabur, Louise Boddie, Charles E. McBea, Larry C. Liou, John Gallo, Emmett Saunders, Mary Jan Buckshot, Sr. Joaquina Carrion, Kathryn M. Hall, Hasan Muheisen, Barbara S. Rosenthal, Henry Simon.

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

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BOARD OF SIDEWALK APPEALS – Service Director Henry Guzmán; Law Director Sylvester Summers, Jr.; Councilman Roosevelt Coats.

BOARD OF REVIEW – (Municipal Income Tax) – Law Director Sylvester Summers, Jr.; Utilities Director Michael Konicek; Council President Jay Westbrook.

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

MORAL CLAIMS COMMISSION – Law Director Sylvester Summers, Jr.; Chairman; Finance Director Martin L. Carmody, Jr.; Council President Jay Westbrook; Councilman Roosevelt Coats; Councilman Martin J. Sweeney.

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BOARD OF EXAMINERS OF PLUMBERS – Joseph Gyorky, Chrm.; Earl S. Bumgarner, _____, Jozef Valencik, Martin Gallagher, Laszlo V. Kemes, Secretary.

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CLEVELAND MUNICIPAL COURT JUSTICE CENTER—1200 ONTARIO CENTRAL SCHEDULING DEPARTMENT JUDGE COURTROOM ASSIGNMENTS

Judge	Courtroom
Presiding and Administrative Judge Larry A. Jones	13C
Judge Ronald B. Adrine	15A
Judge Colleen C. Cooney	14A
Judge C. Ellen Connally	15C
Judge Mabel M. Jasper	14D
Judge Mary E. Kilbane	14C
Judge Kathleen A. Keough	12C
Judge Ralph J. Perk, Jr.	14B
Judge Raymond L. Pianka (Housing Court Judge)	13B
Judge Angela R. Stokes	13A
Judge Gerald F. Sweeney	13D
Judge Robert J. Triozzi	12A

Earle B. Turner – Clerk of Courts, John J. O'Toole—Court Administrator, Robert C. Townsend, II—Bailiff; Kenneth Thomas—Chief Probation Officer, Michelle L. Paris—Chief Magistrate

The City Record



OFFICIAL PUBLICATION OF THE CITY OF CLEVELAND

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WEDNESDAY, JUNE 3, 1998

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CITY COUNCIL

MONDAY, JUNE 1, 1998

The City Record

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ARTHA WOODS

Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 1998-2001

MONDAY—Alternating

9:30 A.M.—**Public Parks, Property & Recreation Committee:** Willis, Chairman; Dolan, Vice Chairman; Britt, Lewis, Polensek, Sweeney, White.

9:30 A.M.—**Public Health Committee:** Gordon, Chairman; Britt, Vice Chairman; Cimperman, Cintron, Jackson, Melena, Robinson.

MONDAY—Alternating

11:00 A.M.—**Public Service Committee:** Sweeney, Chairman; Cintron, Vice Chairman; Britt, Johnson, Jones, Melena, Moran, Patmon, Polensek.

11:00 A.M.—**Employment, Affirmative Action & Training Committee:** White, Chairman; Moran, Vice Chairman; Britt, Cintron, Gordon, Lewis, Johnson.

MONDAY

2:00 P.M.—**Finance Committee:** Johnson, Chairman; Westbrook, Vice Chairman; Coats, Lewis, Melena, Patmon, Polensek, Robinson, Rybka, Sweeney, Zone.

TUESDAY

10:00 A.M.—**Community and Economic Development Committee:** Jackson, Chairman; Robinson, Vice Chairman; Cimperman, Cintron, Coats, Gordon, Jones, Lewis, Zone.

1:30 P.M.—**Legislation Committee:** Zone, Chairman; Jones, Vice Chairman; Britt, Cimperman, Dolan, Johnson, Rybka.

WEDNESDAY—Alternating

10:00 A.M.—**Aviation & Transportation Committee:** Westbrook, Chairman; Sweeney, Vice Chairman; Cimperman, Dolan, Patmon, White, Willis.

10:00 A.M.—**Public Safety Committee:** Coats, Chairman; Zone, Vice Chairman; Gordon, Jackson, Jones, Melena, Moran, White, Willis.

WEDNESDAY—Alternating

1:30 P.M.—**Public Utilities Committee:** Patmon, Chairman; Coats, Vice Chairman; Britt, Cintron, Dolan, Jones, Lewis, Moran, Polensek.

1:30 P.M.—**City Planning Committee:** Rybka, Chairman; Robinson, Vice Chairman; Cimperman, Jackson, White, Willis, Zone.

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio June 1, 1998.

The meeting of the Council was called to order, the Council Majority Leader, Roosevelt Coats in the Chair.

Councilmen present: Britt, Cimperman, Cintron, Coats, Dolan, Gordon, Jackson, Johnson, Jones, Lewis, Moran, Patmon, Polensek, Robinson, Rybka, Sweeney, Willis, Zone.

Also present were Mayor White and Directors Summers, Carmody, Konicek, Guzman, Staib, Denihan, Jackson, Hamilton, Nolan, Axelrod, Carter, Morrison, and Acting Directors Sheffield-McClain, Huth.

Absent: Director Warren.

Pursuant to Ordinance No. 2926-76, the Council meeting was opened with a prayer offered by Rev. Robert Andrews, Pastor of St. Phillip the Apostle Episcopal Church and St. Agnes Mission for the Deaf, located in Ward 15. Pledge of Allegiance.

MOTION

On the motion of Councilman Robinson, the Clerk was instructed to correct the journal of the May 4, 1998, meeting of the Council (City Record Volume 85, Page 646) by striking the following:

“Ord. No. 1279-97.

By Councilmen Smith, Rybka and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Port Control to employ one or more professional consultants to provide engineering services necessary to design the relocation of Brook Park Road.

Approved by Directors of Port Control, City Planning Commission, Finance, Law; Recommended by Committees on Aviation and Transportation, City Planning, Finance, when amended as follows:

1. In Section 1, at the end of the second paragraph, add the following sentence: **“Prior to such Board of Control selection the Director of Port Control shall notify the Chairman of the Aviation and Transportation Committee, in writing, of the proposed consultant and the pending selection of such consultant by the Board.”**

2. In the title, at the end, strike the period and insert the following: **”; to enact new Section 8 and to renumber existing Section 8 as new Section 9.”**

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

“Section 2. That Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, is hereby supplemented by enacting new Section 8 to read as follows:

Section 8. That no properties acquired pursuant to this ordinance will be resold to any third parties without the prior approval of Council through the passage of legislation.

Section 3. That existing Section 8 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, is hereby renumbered to new “Section 9”.

Amendments agreed to.”

and inserting in lieu thereof:

“Ord. No. 1279-97.

By Councilmen Smith, Rybka and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Port Control to employ one or more professional consultants to provide engineering services necessary to design the relocation of Brook Park Road.

Approved by Directors of Port Control, City Planning Commission, Finance, Law; Recommended by Committees on Aviation and Transportation, City Planning, Finance, when amended as follows:

1. In Section 1, at the end of the second paragraph, add the following sentence: **“Prior to such Board of Control selection the Director of Port Control shall notify the Chairman of the Aviation and Transportation Committee in writing, of the proposed consultant and the pending selection of such consultant by the Board.”**

Amendment agreed to.”

and by striking the following:

“Ord. No. 307-98.

By Councilmen Sweeney, Westbrook, Rybka and Johnson (by departmental request).

An emergency ordinance to amend the title and Section 1 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, relating to the acquisition boundaries of real property located in the vicinity of Cleveland Hopkins International Airport.

Approved by Directors of Port Control, City Planning Commission, Recommended by Committees on Aviation and Transportation, City Planning, Finance, when amended as follows:

1. Insert the following Whereas clause before the existing one:
"Whereas a full effort is to be made by the Administration to tender purchase offers to homeowners before the end of 1998; and
 Amendment agreed to."

and inserting in lieu thereof:

"Ord. No. 307-98.

By Councilmen Sweeney, Westbrook, Rybka and Johnson (by departmental request).

An emergency ordinance to amend the title, and Section 1 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, relating to the acquisition boundaries of real property located in the vicinity of Cleveland Hopkins International Airport.

Approved by the Directors of Port Control, City Planning Commission, Recommended by Committees on Aviation and Transportation, City Planning, Finance, when amended as follows:

1. Insert the following Whereas clause before the existing one:

"Whereas, a full effort is to be made by the Administration to tender purchase offers to homeowners before the end of 1998; and

2. In the title, at the end, strike the period and insert the following: **"; to enact new Section 8 and to renumber existing Section 8 as new Section 9."**

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

"Section 2. That Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, is hereby supplemented by enacting new Section 8 to read as follows:

Section 8. That no properties acquired pursuant to this ordinance will be resold to any third parties without the prior approval of Council through the passage of legislation.

Section 3. That existing Section 8 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, is hereby renumbered to new "Section 9".

Amendments agreed to."

and, further, that the Clerk was instructed to publish these ordinances correctly in the June 3, 1998, City Record. The reading of the minutes of the last meeting was dispensed with and the journal approved.

COMMUNICATIONS

File No. 954-98.

From the Department of Public Utilities re: Notice to Council of Subsidiary Agreement. Received.

File No. 955-98.

From the Department of Public Utilities re: Nerone & Sons Inc. Contract No. 51070A&B, has been completed and accepted on December 5, 1997. Received.

File No. 956-98.

From the Division of Purchases and Supplies re: Sales Request No. 90161, for sale or lease of property North Side of Mt. Overlook Avenue and East 124th Street. Received.

File No. 957-98.

From the Department of Port Control re: Notification of "Set Aside" Req. #13524. Received.

File No. 958-98.

From Cleveland Energy Resources re: Copy of Agreement with Cuyahoga Metropolitan Housing Authority. Received.

File No. 959-98.

From the Department of Port Control re: Notification of "Set Aside" Req. #13558. Received.

File No. 960-98.

From the Playhouse Square Center re: Modified Articles of Incorporation, which govern the activities of the corporation. Received.

File No. 961-98.

From Cuyahoga County Port Authority re: North Coast Harbor Report pursuant to the Common Area Maintenance Agreement dated January 1, 1995. Received.

FROM THE DEPARTMENT OF LIQUOR CONTROL

File No. 962-98.

Re: New Application - 1741148 - Corbo Properties LTD LLC, 12312 Mayfield Road, first floor and basement. (Ward 6). Received.

File No. 963-98.

Re: New Application - 54075040005 - Madaba Inc. dba Quick Stop, 6017 Quincy Avenue. (Ward 5). Received.

File No. 964-98.

Re: New Application - 36356500005 - Harry John Inc., 8502 Quincy Avenue. (Ward 6). Received.

File No. 965-98.

Re: New Application - 1783507 - Idell Cowan dba All My Children Mini Mart, 3125 East 65th Street. (Ward 12). Received.

File No. 966-98.

Re: Transfer of Ownership Application - 0072349 Aetfood Inc. dba Aetna Food Market, 3661 East 93rd Street, first floor and basement. (Ward 2). Received.

File No. 967-98.

Re: Transfer of Ownership Application - 4103675 190 LTD LLC, 812 Huron Road, first floor unit 6R3. (Ward 13). Received.

File No. 968-98.

Re: Transfer of Ownership and Location Application - 1512775 - City Restaurant Management Corp. dba Vico, 1850-75 East 6th Street. (Ward 13). Received.

STATEMENT OF WORK ACCEPTED

File No. 969-98.

From the Department of Parks, Recreation and Properties re: Contract No. 51184, for Groton Park. Received.

CONDOLENCE RESOLUTIONS

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

Res. No. 1019-98. Shirley D. Harville.

Res. No. 1020-98. Susie Mae Rutherford.

CONGRATULATORY RESOLUTIONS

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

Res. No. 1021-98. American Business Women's Association.

Res. No. 1022-98. Emily Laster.

Res. No. 1023-98. Edward R. Wesolowski.

Res. No. 1024-98. Ricki M. Neubecker.

Res. No. 1025-98. Pipefitters Local Union #120.

Res. No. 1026-98. Ward One 1998 LifeTime Achievement Recipients.

RECOGNITION RESOLUTIONS

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

Res. No. 1027-98. Dr. Mitchel Nathaniel Toney.

Res. No. 1028-98. International Theatre Exchange.

Res. No. 1029-98. Fairchild Jeep Eagle.

Res. No. 1030-98. "Take Up Space and Declaration of Space Leadership Week".

FIRST READING EMERGENCY ORDINANCES REFERRED

Ord. No. 978-98.

By Mayor White.

An emergency ordinance approving and ratifying an agreement with Norfolk Southern Corporation and Norfolk Southern Railway Company to ameliorate adverse environmental impacts due to changes in rail traffic resulting from the railroads' acquisition of certain Conrail assets.

Whereas, on June 23, 1997, Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS") and CSX Corporation and CSX Transportation, Inc. ("CSX") filed a joint application with the Surface Transportation Board ("Board") seeking authority for NS and CSX to acquire and divide certain assets of Conrail; and

Whereas, Cleveland intervened in the proceeding before the Board in order to avoid significant adverse environmental impacts resulting from anticipated increases in rail traffic in Cleveland's neighborhoods should the Board approve the joint application; and

Whereas, on May 22, 1998, the Mayor executed a Memorandum of Agreement with NS which, subject to ratification and approval by this Council, would commit NS to make changes to its Operating Plan, capital investments in Cleveland and financial contributions to Cleveland in order to ameliorate and mitigate the adverse environmental impacts in Cleveland resulting from increases in rail traffic by NS and would result in significant benefits to the City and its residents; and

Whereas, this Council hereby ratifies and approves the agreement made by the Mayor and NS; and

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

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

Section 1. That, notwithstanding any ordinance to the contrary, this Council hereby ratifies and approves the Memorandum of Agreement with Norfolk Southern Corporation and Norfolk Southern Railway Company to ameliorate certain adverse environmental impacts due to changes in rail traffic resulting from the

railroads' acquisition of certain Conrail assets, which was executed by the Mayor and NS on May 22, 1998 and reads as follows:

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is entered into this 22nd day of May, 1998 by and between the City of Cleveland, Ohio, by and through its Mayor and subject to the approval of the City Council, and Norfolk Southern Corporation and Norfolk Southern Railway Company, by their undersigned Chairman/President/Chief Executive Officer.

Whereas, Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") are among the Applicants in the railroad control proceeding currently pending before the United States Surface Transportation Board (the "STB") under Finance Docket No. 33388 (the "Conrail Application"), in which NS and CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") are seeking authority to jointly acquire Conrail, Inc. and Consolidated Rail Corporation (collectively, "Conrail") and to thereafter separately operate parts of the rail lines, facilities and other assets of Conrail; and

Whereas, NS submitted to the STB an Operating Plan and Environmental Report as part of the Conrail Application, which submissions describe certain changes in rail traffic and operations that are projected to result from the Conrail Transaction (the "Transaction"); and

Whereas, the City of Cleveland, Ohio ("Cleveland" or the "City") has participated as a party in the proceedings at the STB regarding the Conrail Application and has in filings and comments submitted to the STB requested that the STB order NS and CSX to take certain actions to avoid what the City has described as significant adverse environmental impacts of the Transaction upon the City and its residents, or alternatively, that the STB condition any approval of the Conrail Application on the imposition of various conditions designed to mitigate such impacts; and

Whereas, the STB's Section of Environmental Analysis ("SEA") issued a Draft Environmental Impact Statement ("DEIS") with respect to the Conrail Application in December 1997 which included a characterization of the City as a community with "unique circumstances" and directed NS to consult with government agencies, elected officials and interested parties in Cleveland regarding certain projected train traffic increases on certain lines to be operated by NS post-Transaction in Cleveland; and

Whereas, NS and the City have engaged in such consultations with the goal of reaching agreement on mitigation measures to ameliorate the adverse environmental impacts in Cleveland of the projected changes in rail traffic and operations on rail lines and facilities to be operated by NS post-Transaction resulting from the Transaction; and

Whereas, the City recognizes the concerns of its neighboring communities, particularly the City of Berea, Ohio, regarding potential adverse impacts of the Transaction, and has sought to reach an agreement with NS that does not harm the interests of those communities while preserving the right and ability of those communities to pursue their

own agreements to protect the interests of residents and businesses located therein; and

Whereas, NS and the City have reached agreement on such mitigation measures and have made certain other commitments to each other as described hereinafter, including but not limited to certain commitments by NS to make certain changes to its Operating Plan, certain capital investments and certain financial contributions for mitigation of Transaction impacts and for the benefit of the City; and

Whereas, the Mayor has agreed to recommend to the Council of the City of Cleveland that it approve this Agreement and authorize the Mayor and the appropriate Directors of the City to take such further actions as are necessary to effectuate the terms hereof;

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

I. Modifications to Operating Plan.

In consideration of the concerns of Cleveland and other communities in the Greater Cleveland area about increases in train frequencies projected for certain of the lines that NS will operate following approval by the Surface Transportation Board of the Conrail Application, NS agrees to modify its original Operating Plan. The modifications to the Operating Plan are summarized herein and are described more fully in NS' Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity, which was submitted to the STB on April 16, 1998 (hereinafter, the "Mitigation Proposal").

A. Cloggsville Connection Construction: NS agrees to construct what is termed the "Cloggsville Connection," which construction is comprised of two main elements: upgrading the rail lines and facilities between the NS Nickel Plate line at Cloggsville and the Conrail Lakefront line at CP-190 to double-track main line standards through changes and improvements to tracks, bridges, connections, signals and other appurtenant rail facilities, as described more fully in the Mitigation Proposal; and building approximately 7,950 feet of new rail line to connect two parallel rail lines that are approximately 2,100 feet apart, thereby creating a double connection at Vermilion between NS' Nickel Plate line and the Conrail Chicago line to be operated by NS post-Transaction, instead of the single connection described in NS' original Operating Plan, as described more fully in the Mitigation Proposal.

1. Funding: The cost of the construction and improvements to the rail lines and facilities between Cloggsville and CP-190 is currently estimated at \$24,350,000. The cost of constructing a double connection at Vermilion is currently estimated at \$3,000,000 more than constructing the single connection originally proposed in the Operating Plan. NS hereby commits to fund up to the full cost of these Cloggsville Connection projects. (NS previously committed in its Operating Plan to spend the approximately \$2,587,000 needed to construct a single connection at Vermilion.) NS' commitment to fund up to the full cost of these projects is not limited to the current cost estimates contained herein.

2. Schedule: NS estimates that construction of the double connection at Vermilion will take three to five

months to complete, and that construction of the improvements to the rail lines and facilities between Cloggsville and CP-190 will take 18 to 24 months to complete, and NS hereby agrees to use its best efforts to complete these construction projects within these time frames. NS will commence implementation of both elements of the Cloggsville Connection projects within ten days of the date on which the approval by the STB of the Conrail Application has become effective, and NS will advance completion thereof with reasonable expedition in view of operating, engineering and other construction-related constraints, and any need to obtain additional governmental approvals.

3. Government Approvals. NS commitment to construct the Cloggsville Connection project and to do so in accordance with the schedule detailed above is subject to the acquisition of any necessary federal, state and local regulatory, governmental, environmental and other permits, approvals and authorizations for the projects specified herein, including but not limited to any necessary and applicable STB approvals. NS shall make all necessary efforts to obtain such approvals within a time frame that will permit completion of the projects within the estimated time frames described in Section I. A. 2. hereof.

4. Removal/Relocation of Utility Facilities. If the Cloggsville Connection construction requires the removal and/or relocation of any electric utility poles or facilities, the allocation of cost of such removal and/or relocation shall be determined in accordance with existing easements, licenses and other agreements applicable to such utility poles or facilities; and NS specifically agrees that no order of the STB approving the Conrail Application or any part thereof shall be interpreted to preempt the application of the terms of any such existing easements, licenses or other agreements to any such removal or relocation. NS will cooperate with the applicable utility company to minimize or avoid interruption of service to utility customers.

B. Rerouting of Trains from Nickel Plate to Conrail Lines: NS agrees to further modify its Operating Plan as follows. Within twenty (20) days after completion of construction of the double connection at Vermilion, NS will reroute approximately 10.6 trains per day from a Rochester, PA — Youngstown, OH — Ashtabula, OH — Cleveland (Cloggsville) — Vermilion routing through Cleveland via the NS Nickel Plate line (as provided in the original Operating Plan), to a Rochester, PA — Alliance, OH — White, OH — Cleveland (CP 181) — Berea, OH — Vermilion routing through Cleveland via Conrail lines to be operated by NS post-Transaction. Once this rerouting is accomplished, NS projects that average daily freight train traffic on the Nickel Plate line will be approximately 26.0 trains between Ashtabula and Cleveland (Cloggsville) and approximately 23.5 trains between Cleveland (Cloggsville) and Vermilion.

C. Rerouting of Trains from Nickel Plate to Cloggsville Connection Route: NS agrees to further modify its Operating Plan as follows. Within twenty (20) days after completion of the construction and improve-

ments to the lines and facilities between Cloggsville and CP-190, NS will reroute approximately 9.6 trains per day from a Cleveland (Cloggsville) to Vermilion routing via the NS Nickel Plate line (as provided in the original Operating Plan) to the Cleveland (Cloggsville) — CP-190 — Berea — Vermilion routing created by virtue of the aforesaid construction and improvements. Once this rerouting is accomplished, NS projects that average daily freight train traffic on the following line segments will be: Cleveland (Cloggsville) to CP-190 — 13.8; CP-190 to Berea — 63.1; Berea to Vermilion — 55.1.

D. Revisions to Traffic Projections: Table 1, attached hereto, contains the average daily freight train traffic projections from NS' original Operating Plan for the lines to be operated by NS in Cleveland and the Greater Cleveland area post-Transaction. NS agrees to modify its Operating Plan by substituting the average daily freight train traffic projections contained in Table 2, attached hereto, for these lines. Once the rerouting associated with completion of the full Cloggsville Connection is accomplished, the projections contained in Table 2 hereto will be in effect, including the following projections of average daily freight train traffic: 26.0 trains on the Nickel Plate line between Ashtabula and Cleveland (Cloggsville); 13.9 trains on the Nickel Plate line between Cleveland (Cloggsville) and Vermilion; 40.3 trains on the Pittsburgh line (currently operated by Conrail) between White, OH and Cleveland (CP-181); 53.5 trains on the Lakefront line (currently operated by Conrail) between CP-181 and CP-190, 13.8 trains on the "Cloggsville Connection" line between Cleveland (Cloggsville) and CP-190; and 63.1 trains on the Lakefront line between CP-190 and Berea, OH.

II. Grade Separation Projects. Subject to the approval of the projects by the appropriate state authorities and the availability and commitment of funding from federal, state and other public sources necessary to complete the projects, NS agrees to contribute up to \$1,500,000 in the aggregate toward two grade separation projects, one at Dille Road and one at London Road. The total cost of the Dille Road and London Road grade separation projects is estimated to be \$13,500,000. It is expected that amounts exceeding NS' contribution will come from public sources, including but not limited to funds provided by the federal government and/or the Ohio Rail Development Commission. NS shall pay its portion of the cost of each of these projects in accordance with such schedule(s) as may be established by the appropriate government agency or agencies with jurisdiction over the projects.

III. Community Impacts Fund. In consideration of Cleveland's concerns about adverse environmental impacts from the Transaction, and in order to assist Cleveland with mitigation thereof, NS will provide a total amount of \$10,000,000 (ten million dollars) to Cleveland over a period of five years for a Community Impacts Fund ("CIF") to be established by the City.

A. Schedule of NS Payments. NS will make payments to Cleveland to fund the CIF as follows: An initial

payment of \$2,000,000 (two million dollars) will be made no later than 30 days after the date on which the STB's approval of the Transaction has become effective; the balance of \$8,000,000 (eight million dollars) will be paid in four equal annual installments, each installment of \$2,000,000 (two million dollars) to be paid no later than 12 months after the prior payment.

B. Purpose and Use of CIF. Cleveland will utilize the CIF at its sole discretion for mitigation projects designed to mitigate what the City deems to be adverse environmental impacts resulting from the Transaction and associated with the rail lines and facilities that will be operated in Cleveland by NS post-Transaction. Such impacts may include, but are not limited to, those in the areas of noise and vibration, emergency response and vehicular delay, hazardous materials transport and response, pedestrian and vehicular safety, grade crossing maintenance, and cultural preservation. CIF funds may be used for purposes determined by the City to be related to protection of the City's neighborhoods from the adverse impacts of the Transaction, which may include but are not limited to projects designed to mitigate some or all of these impacts, including but not limited to noise mitigation projects, hazardous materials training and equipment, grade crossing maintenance projects, home value guarantees, fencing projects adjacent to parks and other pedestrian safety projects, landscaping, a maintenance endowment fund and other projects that, in the sole discretion of the City, are reasonably related to the impacts of the Transaction and are associated with the lines and facilities to be operated by NS post-Transaction. It is also understood that the City may expend up to \$250,000 of CIF monies as "seed money" for the furtherance of proposals to preserve and enhance the Mill Creek Waterfall and to better incorporate the Mill Creek Waterfall into the Cleveland Metroparks in the event and to the extent that the City determines that such proposals merit such expenditures.

C. Establishment and Administration of CIF. The CIF shall be established and administered solely by the City or its duly appointed designee(s). NS agrees to participate as a consultant to the City and/or its designee(s) with respect to CIF matters affecting or relating to NS operations or property. Cleveland shall have sole responsibility for selecting, managing and maintaining CIF mitigation projects, except as stated hereinafter.

D. Construction/Installation of Noise Mitigation Structures and Landscaping. The City may, in its discretion, utilize CIF funds for noise walls, noise barriers and/or other structures, improvements, equipment or appurtenances designed to mitigate noise (hereinafter, collectively, "noise mitigation structures") as well as for landscaping designed to mitigate noise or visual impacts (hereinafter "landscaping"). To the extent that any such projects are to be constructed or installed on NS' right of way or other NS property, the City shall be required to consult with NS and to obtain NS' concurrence with respect to the design, schedule for construction and/or installation, and, to the extent permitted by law, the identity of individuals or entities performing the construction and/or

installation. NS agrees not to unreasonably withhold such concurrence. The City understands that all noise mitigation structures or landscaping constructed and/or installed on NS' right of way and/or property must be in compliance with any applicable federal law or regulations governing railroads, including but not limited to the regulations of the Federal Railroad Administration, and must conform with any applicable engineering and other standards of NS. NS shall grant the City such easements or licenses as may be necessary for construction and/or installation of such noise mitigation structures and landscaping.

E. Ownership and Maintenance of Noise Mitigation Structures and Landscaping.

1. Any noise mitigation structures constructed or installed on NS right of way or NS property by the City shall become the property of NS, subject to the following agreements regarding maintenance of such noise mitigation structures. NS shall be solely responsible for maintaining the structural integrity of such noise mitigation structures in accordance with applicable law and regulations, including all necessary preventive maintenance, ongoing maintenance and repairs; provided, however, that the City shall bear responsibility for keeping the walls free from graffiti or other visual defacement of such structures.

2. Any landscaping constructed or installed on NS right of way or NS property by the City shall be owned by the City, and the City shall have sole responsibility for the maintenance of such landscaping. NS shall grant the City such rights of access as may be necessary for the City to perform such maintenance of the landscaping.

F. Maintenance Endowment Fund.

As stated in subsection B of this section, CIF funds may be used for, among other things, a Maintenance Endowment Fund. Such Maintenance Endowment Fund would be used for maintenance of landscaping constructed or installed by the City pursuant to subsections D and E of this Section and for other maintenance projects related to or associated with impacts from the rail lines and facilities to be operated by NS post-Transaction which impacts are not ordinarily the responsibility of the railroad under applicable laws and regulations. The parties agree that prior to the expiration of a period of five years from the date on which the STB's approval of the Transaction has become effective, NS and the City will engage in discussions regarding the question of whether the Maintenance Endowment Fund should be continued beyond the five-year period of the CIF and, if so, for what period of time and with what level of additional NS commitment of funds. It is understood that NS' agreement to participate in such discussions regarding the Maintenance Endowment Fund does not commit NS to entering into an agreement with the City at that time regarding continuation of the Maintenance Endowment Fund. It is also understood that the establishment of the Maintenance Endowment Fund does not alter NS' maintenance obligations under applicable laws, regulations or agreements, except as otherwise provided in this Agreement.

G. Liability. In providing funds to the CIF, NS does not in any way acknowledge that the mitigation

projects to be implemented through the CIF are required as a matter of law. Nor does NS acknowledge or warrant that the projects to be implemented through the CIF will necessarily achieve any mitigation or any particular level or degree of mitigation of the adverse impacts they are intended to remedy. To the extent permitted by law, Cleveland agrees to bear full legal responsibility for any and all damages, claims or injury arising out of the administration of the CIF by the City, the selection, construction and installation of projects undertaken with CIF funds by the City, the maintenance of any landscaping constructed or installed by the City pursuant to subsections D and E of this section, and the maintenance of other projects undertaken with CIF funds by the City where such other projects are not constructed on NS property. NS agrees to indemnify and hold harmless the City against any and all damages, claims or injury arising out of the maintenance of noise mitigation structures by NS pursuant to subsection E of this section. Further, Cleveland agrees to include in any contract related to the CIF for projects undertaken with CIF funds which requires the contractor to enter onto any property owned by NS a requirement that the contractor indemnify and hold harmless NS against any claims related to the construction, installation or maintenance of such projects.

IV. Modification of Commitments in the Event of Operating Changes. Given the fluctuating nature of rail freight traffic over time, and the possibility that a change in circumstances could have a significant effect on the assumptions and projections of the NS Operating Plan, the parties recognize that deviations from the projected average train frequencies set forth in NS' Operating Plan as revised by Table 2 hereto may be necessary. To preserve NS' operating flexibility while affording a mechanism for addressing certain future impacts of any substantial increases in NS train traffic over the projections contained in Table 2, the parties agree as follows:

A. Nickel Plate Line Noise Mitigation. Except as provided hereinafter, if during the eight-year period beginning on the date on which construction of the Cloggsville Connection has been fully completed, there is any period of twelve consecutive months in which the average daily number of trains on the Nickel Plate line between Cloggsville and Vermilion equals or exceeds 26 trains per day on an annualized basis, NS shall contribute \$2,600,000 in additional funds to the CIF for noise mitigation projects along this rail segment. Such payment shall be made within 90 days after the end of such twelve-month period. The provisions of this subsection shall not apply to train movements prior to the date on which construction of the Cloggsville Connection has been fully completed, and none of the twelve-month periods of traffic increases referred to in this subsection shall include any period prior to such Cloggsville Connection project completion date.

B. W. 117th Street Grade Crossing Mitigation. If during the five-year period beginning on the date on which construction of the Cloggsville Connection has been fully

completed, there is any period of twelve consecutive months in which the average daily number of trains on the Nickel Plate line between Cloggsville and Vermilion equals or exceeds 19 trains per day on an annualized basis, NS shall work cooperatively with Cleveland in seeking the support of and funding from the applicable state authorities for a grade separation project for the W. 117th Street grade crossing, and NS shall contribute up to 10 percent of the cost of funding such project. NS shall pay its portion of the cost of such project in accordance with such schedule as may be established by the appropriate government agency or agencies with jurisdiction over the project.

C. Aetna and Bessemer Streets Grade Crossing Mitigation. If during the five-year period beginning on the date on which construction of the Vermilion double connection has been fully completed, there is any period of twelve consecutive months in which the average daily number of trains on the existing Conrail line to be operated by NS post-Transaction between White, OH and Cleveland (CP-181) equals or exceeds 45 trains per day on an annualized basis, NS shall: (1) work cooperatively with Cleveland in seeking the support of and funding from the applicable state authorities for grade separation projects for the Aetna Street and Bessemer Street grade crossings, and NS shall contribute up to 10 percent of the cost of funding such project and NS shall pay its portion of the cost of such project in accordance with such schedule as may be established by the appropriate government agency or agencies with jurisdiction over the project; and (2) in the event that it is not advisable or possible to construct a grade separation at Aetna Street and Bessemer Street, or at either of them, NS will cooperate with the City on developing an alternative capital improvement or improvements, to be negotiated by NS and the City, designed to improve access to emergency and other public safety responders for the neighborhoods surrounding such grade crossing(s), with NS' funding commitment for such capital improvement(s) to be up to 10 percent of the cost of a grade separation at such grade crossing(s) but not to exceed the total cost of such capital improvement(s).

D. Mitigation for Capacity Increases. Except as provided hereinafter, if during the ten-year period beginning on the date on which the STB's approval of the Transaction has become effective, NS decides to increase capacity through the construction of an additional main rail line in Cleveland or of a rail siding in excess of three miles in length in Cleveland, NS agrees to provide prior notice of such project(s) to the City and to enter into good faith discussions with the City regarding the question of whether there are any significant environmental impacts resulting from such project(s) and regarding the possible mitigation of any such impacts. As used herein, the terms "construction of an additional main rail line" and "construction . . . of a rail siding in excess of three miles in length" do not include the construction of industrial tracks or spurs, nor do they include other rehabilitation, improvement or upgrading of any existing track or the signals or structures appurtenant thereto, nor

do they include the addition of any main line track by or on behalf of any other railroad on the right of way of NS unless NS has the ability to use such main line track. It is understood that NS' agreement to participate in good faith discussions regarding the environmental impacts of and possible mitigation of such impacts of those projects contemplated by this subsection of the Agreement, does not constitute an acknowledgement that such projects will have significant environmental impacts or commit NS to entering into an agreement with the City at that time regarding mitigation of such impacts. It is further agreed and understood that the provisions of this subsection shall not apply to the capacity increases to be constructed as part of the Cloggsville Connection project.

E. NS Reports to Cleveland.

1. In furtherance of this Section IV, NS agrees to provide the City on a monthly basis with an accurate written report on the average daily number of freight trains that operated over each NS line in the City. Each such report shall be provided to the City by NS within 30 days of the end of the applicable month, and shall be contemporaneously submitted by NS to the STB. NS shall provide such monthly reports for a period of ten years from the date on which the STB's approval of the Transaction has become effective.

2. In furtherance of this Section IV, NS also agrees to notify the City in writing of the date on which construction of the Vermilion double connection has been fully completed and the date on which construction of the remainder of the Cloggsville Connection project has been fully completed, with each such written notification to be provided within 15 days of each such completion date.

3. In furtherance of this Section IV, NS also agrees to provide timely advance written notification to the City of any planned capacity increases to which the terms of subsection D hereof would apply.

V. Agreements Regarding Berea Interlocking and Other Train Frequency Issues.

The City desires to reduce the frequency of train operations through residential neighborhoods and to minimize the adverse environmental impacts of the Transaction on the City of Cleveland and the surrounding communities, including but not limited to the City of Berea. NS believes that the integrity of its Operating Plan for train operations in and around Cleveland would be compromised if too many trains had to be crossed at the Berea interlocking between the Lakefront line to be operated by NS post-Transaction and the Short line to be operated by CSX post-Transaction. NS has determined after extensive study that a maximum of 15 trains per day can be crossed at the Berea interlocking without causing undue congestion or unduly disrupting NS operations; and the City acknowledges and accepts the validity of this determination by NS. NS agrees that as many as 15 CSX trains can and will be accommodated to operate via trackage rights on the Lakefront line to be operated by NS post-Transaction for as long as NS controls operations on said Lakefront line.

VI. Community/Railroad Committee. The parties hereby acknowledge their intent to continue the

working relationship that has developed between them and to work together to strengthen that relationship over time as long as NS conducts operations in the City. NS and the City agree to jointly establish a Community/Railroad Committee (the "Committee") comprised of twelve (12) persons: Three members appointed by NS, three members appointed by the Mayor, three members appointed by the City Council President, and three members of the community appointed by the Mayor. The purpose of the Committee shall be to provide a forum for ongoing discussion and dialogue between NS and the City regarding issues of mutual concern. The Committee shall meet quarterly, beginning in the first quarter after the effective date of the STB's approval of the Conrail Application, and continuing thereafter according to a schedule established by the Committee itself. Issues to be discussed by the Committee may include, but are not limited to, matters discussed in this Section VI, as well as consideration of citizen complaints relating to NS' operations, potential joint economic and job training initiatives, and general monitoring of the mutual obligations set forth in this Agreement. The Committee will prioritize these issues, and will develop for each issue an appropriate process and time schedule. It is understood that with respect to each of the issues of concern identified in this Section VI, the parties' agreement to discuss the issue at the Committee does not commit either NS or the City to enter into any agreements regarding the issue following such discussions, but the City and NS agree to make efforts to resolve issues brought to the Committee.

A. Asset Management. In consideration of concerns expressed by the City regarding ongoing maintenance, condition and appearance of existing NS railroad facilities in Cleveland and of railroad facilities to be operated by NS in Cleveland post-Transaction, including railroad bridges, rights of way and rail yards, NS agrees that within twelve months of the date on which the STB's approval of the Transaction shall have become effective, NS and the City shall conduct joint inspections of such facilities and NS shall, upon completion of such twelve month period, submit to the City an asset management plan for its rail facilities in Cleveland. The scope and content of such asset management plan shall be determined by discussions between NS and the City at the Committee. NS also agrees that within 180 days after the date on which the STB's approval of the Transaction shall have become effective, NS will provide the City with an inventory of all NS bridges, rights of way, rail yards and railroad operating properties located in Cleveland. NS agrees to maintain the structural integrity of its bridges in Cleveland and to maintain its rail facilities in Cleveland in accordance with all applicable laws, regulations and existing agreements to which NS is a party or for which NS is or will be legally responsible. NS agrees to complete any unfinished components of the program of railroad bridge painting/repair agreed to by Conrail and the City in 1993 with respect to those Conrail bridges on the lines to be operated by NS post-Transaction. The parties agree that they will attempt to resolve any disputes or

issues with regard to asset management through discussions at the Committee.

B. Surplus Properties. NS agrees to provide the City with an inventory of all surplus real properties in Cleveland owned or controlled by NS post-Transaction. Such an inventory shall be provided within 90 days of the date on which the STB's approval of the Transaction shall have become effective. NS agrees to discuss with the City's Economic Development Director and the Committee possible dispositions of such surplus real property, including but not limited to possible dispositions that would result in the use of such property for City-supported economic or community development. For purposes of this Agreement, the term "surplus real properties" means those properties located in the City that, as of the effective date of the Transaction, are owned or controlled by NS and are either not then in use by NS in connection with its rail operations or are not believed by NS to have the potential to be used in the future in connection with its rail operations.

C. Billboards. NS will provide the City with an inventory of all billboard leases for billboards on NS' post-Transaction rights of way, bridges and other property in Cleveland, within 90 days of the date on which the STB's decision approving the Transaction shall have become effective. Such inventory shall indicate, to the extent that the information is available to NS, the locations of the billboards covered by the leases and the terms of such leases. Where such information is not available to NS, NS shall provide the City with pertinent information about the lease or prior parties in interest to the lease that is reasonably available to NS. NS agrees not to enter into any lease that would have the effect of adding a billboard to a location where there is no billboard or increasing the number of billboards at a location where there is already one or more billboards, as of the effective date of the Transaction. NS further agrees to take the following actions to eliminate the advertising of tobacco and alcohol products on the billboards on its property in Cleveland: (1) If a current billboard lease permits NS to do so, NS will instruct the lessee that the billboard cannot be used for such advertisements; (2) when each current billboard lease term expires, NS will incorporate a prohibition on tobacco and alcohol advertisements into the terms of any renewal or replacement lease; and (3) if any billboard lease shall not have expired by the end of five years from the date on which the STB's decision approving the Transaction shall have become effective, NS shall otherwise take all legal and practicable steps to eliminate tobacco and alcohol advertisements from any billboard covered by such lease. NS also agrees to ongoing discussions with the City at the Committee regarding the City's desire to eliminate all billboards from railroad property.

D. Capacity Increases. If during the ten-year period beginning ten years after the date on which the STB's approval of the Transaction has become effective, NS decides to increase capacity through the construction in Cleveland of an additional main rail line or of a rail sid-

ing in excess of three miles in length (as such terms are defined in Section IV. D. hereof), NS will provide timely written advance notice to the Community/Railroad Committee, and NS agrees to enter into good faith discussions with the Committee regarding the question of whether there are any significant environmental impacts resulting from such project(s) and regarding the possible mitigation of any such impacts. Prior to the expiration of the ten-year period beginning ten years after the date on which the STB's approval of the Transaction has become effective, NS agrees to discuss with the Committee the question of whether there should be any continuation of NS' commitment to discuss such capacity increases with the Committee.

E. Lakefront Track Realignment. NS agrees to discuss with the City at the Committee the issue of potentially realigning railroad tracks along a portion of the Lakefront so as to consolidate NS and CSX tracks into a single rail corridor there.

F. Mill Creek Waterfall. NS agrees to discuss with the City at the Committee questions with respect to proposals to preserve and enhance the Mill Creek Waterfall and to better incorporate the Mill Creek Waterfall into the Cleveland Metroparks.

G. Business Development. The parties agree to enter into discussions with the City's Economic Development Director and the Committee with the goal of developing an intermodal business development alliance between NS and Cleveland. The parties may also discuss business development along the NS rights of way.

H. Old River Channel. The parties agree to discuss at the Committee proposals for development of the Old River Channel and the pedestrian tunnels on the Lakefront line.

I. [Intentionally omitted.]

J. Permitting Generally. The City agrees to discuss with NS at the Committee any issues, concerns or problems that NS is or may experience in obtaining permits or other types of approvals from City or other local governmental organizations for any of NS' business operations and activities in Cleveland for which such permits or approvals are required.

K. Other Topics. Other topics of discussion at the Committee may include, but are not limited to, the following: the I-480/I-71 Junction and Rockport Yard improvements; the Cloggsville construction and improvements; redevelopment of the southeast quadrant of East 93rd and Quincy; issues relating to the Flats Industrial Railroad; the East 9th/Ontario Intermodal Yard; public transit; and issues relating to hazmat.

VII. Other Understandings and Undertakings.

A. NS acknowledges that it is bound by any system-wide mitigation measures mandated by the STB for hazardous materials transport and intends to apply NS' own system-wide program for the safe transportation of hazardous materials (as further described in Attachment A hereto) to the lines and facilities it will operate in Cleveland post-Transaction. In addition to the program described in Attachment A, NS agrees to provide the City with four OREIS (Operation Respond) software packages, to install such soft-

ware for the City and to train the City's personnel in the use of such software; to provide, upon request, periodic training in railroad/hazmat issues, including classroom, tabletop and full-scale drills; to provide the City with annual reports of the number of car loads of hazardous materials that have moved through the City (including a breakdown by four (4) digit STCC code of the types of materials transported); and to coordinate with the City's personnel or authorized agents the latter's periodic access to NS yards, lines and facilities for the purpose of hazardous materials incident preparedness and planning. It is expressly understood that nothing in this Agreement would absolve NS of its legal, regulatory or business responsibilities associated with hazmat transportation or incidents in Cleveland.

B. With respect to the Cloggsville Connection projects, Cleveland agrees to cooperate with NS, if such cooperation is requested, in obtaining any applicable City or local governmental permits or approvals for the projects, and agrees to use its good offices to assist in resolving any issues that may arise with respect to these projects between NS and any utility companies or other interested third parties.

C. Cleveland agrees that through NS' consultations with the officials and elected representatives of the City of Cleveland, which consultations have culminated in this Agreement, NS has complied with the directives in the DEIS regarding consultations with the City of Cleveland with respect to potentially significant impacts resulting from the Transaction.

D. The City agrees not to seek at the STB, in any court, or in any other forum, any conditions or mitigation with respect to NS in connection with the STB's approval of the Conrail Application that would be contrary to or otherwise inconsistent with this Agreement, the terms hereof or the acknowledgements made herein. NS agrees not to seek at the STB, in any court, or in any other forum, any conditions or mitigation in connection with the STB's approval of the Conrail Application that would be contrary to or otherwise inconsistent with this Agreement, the terms hereof or the acknowledgements made herein.

E. NS and the City agree that neither of them will enter into any agreement with any other individual or entity, seek any decision or order of the STB or of any court, or take any other actions that would be contrary to or would otherwise be inconsistent with this Agreement, the terms hereof or the acknowledgements made herein; provided, however, that nothing in this subsection E shall prevent the City from protecting its rights or pursuing all available remedies with respect to CSX in connection with the Conrail Application as long as the City does not seek the imposition of a remedy that is contrary to or otherwise inconsistent with this Agreement, the terms hereof, or the acknowledgements made herein.

F. Notwithstanding any other terms of this Agreement, this Agreement shall not constrain the City

from pursuing efforts to obtain reductions in the numbers of trains projected to be operated by CSX post-Transaction on the Short line, through negotiations with CSX and/or requests for conditions at the STB. Notwithstanding any other terms of this Agreement, this Agreement shall not constrain the City from pursuing efforts to obtain other mitigation with respect to CSX, through negotiations with CSX and/or requests for conditions at the STB, provided that such mitigation does not relate to NS.

G. The parties agree that as long as the City shall have complied with the terms of this Agreement, including particularly the terms of subsections D and E of this Section, the imposition by the STB of conditions on the Transaction that would have the effect of requiring more than 15 trains per day to cross at the Berea interlocking shall not itself void this Agreement pursuant to Section X. A. hereof.

H. The parties acknowledge and agree that NS' commitment to build the Cloggsville Connection and NS' commitment to accommodate as many as 15 CSX trains per day on the Lakefront line to be operated by NS post-Transaction are unique commitments that are essential to the purpose of this Agreement. Accordingly, in the event that NS notifies the City or the City otherwise determines that NS has not or cannot fulfill either of these commitments (or both of them), the parties agree that: (a) if such notification or determination occurs during the term of any STB oversight proceeding with respect to the Transaction, the City shall have the right to petition the STB for an order compelling specific performance by NS of such commitment(s); and (b) if such notification or determination occurs after the term of any STB oversight proceeding with respect to the Transaction, NS shall consent to the reopening of the Conrail Application by the STB for the purpose of the STB considering a petition by the City for an order compelling specific performance by NS of such commitment(s); and (c) in either event, if the STB determines that specific performance of such commitment(s) shall not be ordered, the parties agree that the STB's approval of the Conrail Application shall be reopened for the limited purpose of reconsideration of the adverse environmental impacts of the Transaction upon the City and of the conditions imposed by the STB for mitigation of such adverse environmental impacts. The parties' agreement to this subsection H does not constitute a waiver by either party of any other remedies that may be available to it with respect to the rights and obligations set forth in this Agreement.

VIII. Submission to City Council. Upon execution of this Agreement, the City's Mayor and appropriate Director(s) shall immediately take all actions necessary to place this Agreement before the Council of the City of Cleveland for its earliest consideration. The Mayor and such Director(s) shall recommend to the City Council that it approve this Agreement, and shall take all other necessary and appropriate actions to ensure the most expeditious consid-

eration of the Agreement by the City Council.

IX. STB Notification. Promptly upon execution of this Agreement and its approval by the City Council:

A. NS and Cleveland will notify the STB in writing that they have entered into this Agreement and will advise the STB of the terms of this Agreement. NS and Cleveland will further request at that time that the STB adopt the terms of this Agreement as a condition of the STB's approval of the Conrail Application; and

B. The City will advise the STB in writing that, in consideration of this Agreement, it is withdrawing its opposition to, and its request for conditions upon, so much of the Conrail Application as relates to NS' acquisition of control of Conrail and NS' proposed post-Transaction rail operations.

X. Conditions. The commitments set forth above are conditioned on:

A. The STB's approval of the Conrail Application, provided that such approval (1) adopts the terms of this Agreement as a condition of such approval, and (2) includes the STB's approval of NS' Operating Plan, as modified by the NS Mitigation Proposal and the commitments made herein; and

B. The acceptance by NS of any other conditions imposed by the STB upon the approval of the Conrail Application; and

C. The approval of the Conrail Application by the STB having become effective.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement, all as of the day and year first above written.

[SIGNATURE BLOCK FOR CITY OF CLEVELAND]

[SIGNATURE BLOCK FOR NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY]

TABLES AND ATTACHMENT

Table 1	NS Original Operating Plan
Table 2	NS Revised Cloggsville Connection Mitigation Proposal
Attachment A	Norfolk Southern's Commitment to Safe Transportation of Hazardous Materials

A copy of the tables and attachment is contained in File No. 978-98-A.

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.

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

Ord. No. 979-98.
By Councilman Johnson (by departmental request).

An emergency ordinance providing for the issuance and sale of Bonds in the maximum principal amount of \$55,000,000 to refund certain of the City's outstanding Various Purpose General Obligation Bonds issued in the years 1988, 1989, 1990, 1991, 1992 and 1994 and to pay expenses incurred in the issuance of those Bonds and that refunding, and authorizing the execution and delivery of an escrow agreement and other agreements with respect to the Bonds and the refunding.

Whereas, pursuant to Ordinance Nos. 347-88, 348-88, 349-88, 350-88, 351-88 and 352-88, all passed on March 14, 1988, Various Purpose General Obligation Bonds, Series 1988, in the aggregate principal amount of \$20,500,000, dated as of May 1, 1988 (the "1988 Various Purpose Bonds"), were issued to pay costs of the following improvements: (i) \$6,970,000 principal amount for the purpose of improving the municipal street system and related facilities, improving certain streets and expressways, between certain termini, and improving certain roadways, driveways, and pedestrian walkways located within or through City facilities by widening, grading, draining, curbing and paving such streets, expressways, roadways, driveways, and pedestrian walkways, by resetting and constructing catch basins and storm drainage facilities in and under such streets, expressways, roadways, driveways and pedestrian walkways, by constructing, reconstructing, renovating and rehabilitating bridges, by installing gutters, sidewalks and related pedestrian improvements, by acquiring any interests in real estate necessary for such purposes, and by installing signs, signals, markings and other devices for traffic control purposes, together with all appurtenances necessary and incidental thereto (Ordinance No. 347-88) ("Project 1"); (ii) \$4,675,000 principal amount for the purpose of improving municipal recreational facilities by constructing, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interests in real estate for, pools, playgrounds and recreation centers, together with all appurtenances necessary and incidental thereto (Ordinance No. 348-88) ("Project 2"); (iii) \$5,360,000 principal amount for the purpose of constructing and rehabilitating police and fire stations, and renovating, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interests in real estate for, facilities related to the protection of the safety and property of the public, together with all appurtenances necessary and incidental thereto (Ordinance No. 349-88) ("Project 3"); (iv) \$525,000 for the purpose of renovating, rehabilitating, furnishing, equipping and otherwise improving facilities for administrative offices of the municipality, including City Hall, together with all appurtenances necessary and incidental thereto (Ordinance No. 350-88) ("Project 4"); (v) \$2,625,000 principal amount for the purpose of constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interests in real estate for, facilities for the maintenance, repair and storage of vehicles and equipment of various City divisions, the

maintenance of City streets, bridges, docks, and properties, and the provision of waste collection services, and administrative functions related thereto, together with all appurtenances necessary and incidental thereto (Ordinance No. 351-88) ("Project 5"); and (vi) \$345,000 principal amount for the purpose of renovating, rehabilitating, furnishing, equipping and otherwise improving facilities related to the protection of the health of the public, together with all appurtenances necessary and incidental thereto (Ordinance No. 352-88) ("Project 6"); and

Whereas, pursuant to Ordinance Nos. 476-89, 477-89, 478-89 and 479-89, all passed on May 1, 1989, Various Purpose General Obligation Bonds, Series 1989, in the aggregate principal amount of \$59,530,000, dated as of August 16, 1989 (the portions of this issue, and only those portions, listed in this paragraph are hereinafter referred to as the "1989 Various Purpose Bonds"), were issued to pay costs of the following improvements: (i) \$5,330,000 principal amount for the purpose of providing funds to pay the costs of improving municipal recreational facilities by constructing, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interests in real estate for, pools, parks, playgrounds, recreation centers, and recreation facilities, together with all appurtenances necessary and incidental thereto (Ordinance No. 476-89) ("Project 7"); (ii) \$17,000,000 principal amount for the purpose of providing funds to pay the costs of constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interests in real estate for, facilities for the protection of the safety and property of the public, the maintenance, repair and storage of vehicles and equipment of various City departments, the maintenance of City streets, bridges, docks, and properties, the maintenance and installation of traffic control devices, and the provision of waste collection services, and administrative functions related thereto, together with all appurtenances necessary and incidental thereto (Ordinance No. 477-89) ("Project 8"); (iii) \$515,000 principal amount for the purpose of providing funds to pay the costs of constructing, renovating, rehabilitating, reinforcing, dredging, reclaiming, and otherwise improving, and acquiring any necessary interests in real estate for, pilings, docks, wharfs, piers, bulkheads, breakwalls, channels and bottom surfaces in and along the rivers, lakes, and lagoons located within or bounding the City of Cleveland or its facilities, together with all appurtenances necessary and incidental thereto (Ordinance No. 478-89) ("Project 9"); and (iv) \$5,230,000 principal amount for the purpose of providing funds to pay the costs of improving the municipal street system and related facilities, improving certain streets and expressways, between certain termini, and improving certain roadways, driveways, and pedestrian walkways located within or through City facilities by widening, grading, draining, curbing and paving such streets, expressways, roadways, driveways and pedestrian walkways, by resetting and constructing catch basins and storm drainage facilities in and under such streets, expressways, roadways, driveways and

pedestrian walkways, by constructing, reconstructing, renovating and rehabilitating bridges, by installing gutters, sidewalks and related pedestrian improvements, by acquiring any interest in real estate necessary for such purposes and by installing signs, signals, markings and other devices for traffic control purposes, together with all appurtenances necessary and incidental thereto (Ordinance No. 479-89) ("Project 10"); and

Whereas, pursuant to Ordinance Nos. 1786-A-90, 1787-A-90, 1788-A-90, 1789-A-90 and 1790-A-90, all passed on August 23, 1990, Various Purpose General Obligation Bonds, Series 1990, in the aggregate principal amount of \$26,645,000, dated as of October 1, 1990 (the "1990 Various Purpose Bonds"), were issued to pay costs of the following improvements: (i) \$11,330,000 principal amount for the purpose of improving the municipal recreational system, including certain recreation centers, pools, parks, playgrounds, playfields and other recreation facilities by the construction, renovation, remodeling, repair, furnishing, equipping and rehabilitation thereof, and by the acquisition of interests in real estate necessary for such purposes, together with all appurtenances necessary and incidental thereto (Ordinance No. 1786-A-90) ("Project 11"); (ii) \$5,660,000 principal amount for the purpose of improving the municipal street system and related facilities, including certain streets and roadways between certain termini by the rehabilitation and resurfacing thereof, certain roadways, driveways and walkways located within or through City facilities by the rehabilitation and/or resurfacing thereof, certain signals pertaining to traffic control by the technological improvement thereof, and certain bridges by the reconstruction, renovation, repair and rehabilitation thereof, and by the acquisition of interests in real estate necessary for such purpose, together with all appurtenances necessary and incidental thereto (Ordinance No. 1787-A-90) ("Project 12"); (iii) \$1,030,000 principal amount for the purpose of certain improvements related to urban redevelopment, including land acquisition and consolidation, site clearance and preparation, the construction of water and sewer lines, catch basins and storm drainage facilities, and the construction and improvement of certain streets, roadways, driveways and pedestrian walkways by the widening, grading, draining, curbing and paving thereof, together with all appurtenances necessary and incidental thereto (Ordinance No. 1788-A-90) ("Project 13"); (iv) \$6,745,000 principal amount for the purpose of improving certain public service facilities, which address health, safety, service and welfare concerns, by the construction, renovation, remodeling, repair, furnishing, equipping and rehabilitation thereof, and by the acquisition of interests in real estate necessary for such purpose, together with all appurtenances necessary and incidental thereto (Ordinance No. 1789-A-90) ("Project 14"); and (v) \$1,880,000 principal amount for the purpose of improving the Cleveland Convention Center by the renovation, remodeling, repair, furnishing, equipping and rehabilitation thereof, together with all appurtenances necessary and incidental thereto (Ordinance No. 1790-A-90) ("Project 15"); and

Whereas, pursuant to Ordinance Nos. 884-91, 885-91, 886-91, 887-91, 888-91, 889-91, all passed on April 22, 1991, Various Purpose General Obligation Bonds, Series 1991A and B, in the aggregate principal amount of \$52,155,000, dated as of May 1, 1991 (the portions of this issue, and only those portions, listed in this paragraph are hereinafter referred to as the "1991A-B Various Purpose Bonds"), were issued for the purpose of providing funds to pay costs of the following: (i) \$9,815,000 principal amount for constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, safety facilities, vehicle and equipment maintenance facilities for various City Departments, street maintenance facilities, public convention facilities, waste collection facilities, and facilities for administrative functions related thereto, together with all appurtenances necessary and incidental thereto (Ordinance No. 884-91) ("Project No. 16"); (ii) \$1,020,000 principal amount for certain improvements related to residential development and redevelopment, including land acquisition and consolidation, site clearance and preparation, the construction of water and sewer lines, catch basins and storm drainage facilities, the construction and improvement of certain streets, roadways, driveways and pedestrian walkways by the widening, grading, draining, curbing and paving thereof, the installation of street lighting and traffic signs and signalization, and the installation of utility lines and improvements, together with all appurtenances necessary and incidental thereto (Ordinance No. 887-91) ("Project No. 17"); (iii) \$9,865,000 principal amount for improving the municipal street system and related facilities, including certain streets and expressways, between certain termini, and improving certain roadways, driveways and pedestrian walkways located within or through City facilities by widening, grading, draining, curbing and paving such streets, expressways, roadways, driveways and pedestrian walkways, by resetting and constructing catch basins and storm drainage facilities in and under said streets, expressways, roadways, driveways and pedestrian walkways, by relocating City-owned utility lines in connection therewith, by constructing, reconstructing, renovating and rehabilitating bridges, by installing gutters, sidewalks and related pedestrian improvements, by acquiring any interests in real estate necessary for such purposes, and by installing signs, signals, markings and other devices for traffic control purposes, together with all appurtenances necessary and incidental thereto (Ordinance No. 885-91) ("Project No. 18"); (iv) \$3,280,000 principal amount for improving municipal recreational facilities by constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interest in real estate for, pools, parks, playgrounds, recreation centers, and recreation facilities, together with all appurtenances necessary and incidental thereto (Ordinance No. 888-91) ("Project No. 19"); and (v) \$1,020,000 principal amount for improving municipal cemetery facilities by constructing, renovating, and rehabilitating such facilities including clearing, grading and excavating land, installing drainage and sewer lines, installing

access roadways including any necessary bridges and culverts, installing utility lines, laying out and numbering burial plots, and planting and landscaping, together with all appurtenances necessary and incidental thereto (Ordinance No. 886-91) ("Project No. 20"); and (vi) \$18,200,000 principal amount for refunding notes which were issued in anticipation of bonds for the purpose of providing funds to pay the costs of renovating, remodeling, and otherwise improving the Cleveland Convention Center by the acquisition or construction of improvements thereto and making related site improvements, together with all appurtenances necessary and incidental thereto (Ordinance No. 889-91) ("Project No. 21"); and

Whereas, pursuant to Ordinance No. 2611-91, passed on November 11, 1991, General Obligation Bonds, Series 1991C, in the aggregate principal amount of \$12,500,000, dated as of December 1, 1991 (the "1991C General Obligation Bonds"), were issued for the purpose of providing funds with which to pay or reimburse the City for the payment of final judgments rendered against the City, including settlements of claims approved by a court, and including interest thereon to the approximate date of issuance of the bonds, costs and expenses assessed or taxed against and defense costs of the City, and other costs, including financing costs, permitted by Chapter 133, Ohio Revised Code, to be paid from the proceeds of such bonds ("Project No. 22"); and

Whereas, pursuant to Ordinance Nos. 726-92, 727-92, 728-92, 729-92 and 731-92, all passed on April 27, 1992, Various Purpose General Obligation Bonds, Series 1992A, in the aggregate principal amount of \$26,000,000, dated as of June 1, 1992 (the "1992A Various Purpose Bonds"), were issued for the purpose of providing funds to pay costs of the following: (i) \$6,975,000 principal amount for constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, safety facilities, vehicle and equipment maintenance facilities for various City Departments, street maintenance facilities, public convention facilities, waste collection facilities, judicial facilities, greenhouse facilities, and facilities for administrative functions related thereto, and together with all appurtenances necessary and incidental thereto, and to pay the costs of acquiring any necessary interests in real estate (Ordinance No. 726-92) ("Project No. 23"); (ii) \$1,030,000 principal amount for certain improvements related to residential development and redevelopment, including land acquisition and consolidation, site clearance and preparation, the construction of water and sewer lines, catch basins and storm drainage facilities, the construction and improvement of certain streets, roadways, driveways and pedestrian walkways by the widening, grading, draining, curbing and paving thereof, the installation of street lighting and traffic signs and signalization, and the installation of utility lines and improvements, together with all appurtenances necessary and incidental thereto (Ordinance No. 727-92) ("Project No. 24"); (iii) \$9,650,000 principal amount for improving the municipal street system and related facilities, including certain streets and expressways, between certain termini, and improving certain road-

ways, driveways and pedestrian walkways located within or through City facilities by widening, grading, draining, curbing and paving such streets, expressways, roadways, driveways and pedestrian walkways, by resetting and constructing catch basins and storm drainage facilities in and under said streets, expressways, roadways, driveways and pedestrian walkways, by planting trees and landscaping, by relocating City-owned utility lines in connection therewith, by constructing, reconstructing, renovating and rehabilitating bridges, by installing gutters, sidewalks and related pedestrian improvements, by acquiring any interests in real estate necessary for such purposes, and by installing signs, signals, markings and other devices for traffic control purposes, together with all appurtenances necessary and incidental thereto (Ordinance No. 728-92) ("Project No. 25"); (iv) \$6,845,000 principal amount for improving municipal recreational facilities by constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interest in real estate for, pools, parks, playgrounds, recreation centers, and recreation facilities, together with all appurtenances necessary and incidental thereto (Ordinance No. 729-92) ("Project No. 26"); and (v) \$1,500,000 principal amount for improving municipal cemetery facilities by constructing, renovating, and rehabilitating such facilities including clearing, grading and excavating land, installing drainage and sewer lines, installing access roadways including any necessary bridges and culverts, installing utility lines, laying out and numbering burial plots, and planting and landscaping, together with all appurtenances necessary and incidental thereto, and to pay the costs of acquiring any necessary interests in real estate (Ordinance No. 731-92) ("Project No. 27"); and

Whereas, pursuant to Ordinance Nos. 872-94, 873-94, 874-94 and 875-94, all passed on May 23, 1994, Various Purpose General Obligation Bonds, Series 1994, in the aggregate principal amount of \$41,790,000, dated as of October 1, 1994 (the "1994 Various Purpose Bonds"), were issued for the purpose of providing funds to pay costs of the following: (i) \$24,545,000 principal amount for improving the municipal street system and related facilities, including certain streets and expressways between certain termini, and improving certain roadways, driveways and pedestrian walkways located within or through City facilities by widening, grading, draining, curbing and paving such streets, expressways, roadways, driveways and pedestrian walkways, by resetting and constructing catch basins and storm drainage facilities in and under said streets, expressways, roadways, driveways and pedestrian walkways, by planting trees and landscaping, by relocating City-owned utility lines in connection therewith, by constructing, reconstructing, renovating and rehabilitating bridges, by installing gutters, sidewalks and related pedestrian improvements, by acquiring any interests in real estate necessary for such purposes, and by installing signs, signals, markings and other devices for traffic control purposes, together with all appurtenances necessary and incidental thereto (Ordinance No. 872-94) ("Project No. 28");

(ii) \$6,325,000 principal amount for improving municipal recreational facilities by constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, and acquiring any necessary interest in real estate for, pools, parks, playgrounds, recreation centers, and recreation facilities, together with all appurtenances necessary and incidental thereto (Ordinance No. 873-94) ("Project No. 29"); (iii) \$1,020,000 principal amount for certain improvements related to urban renewal and residential development and redevelopment, including land acquisition and consolidation, site clearance and preparation, the construction of water and sewer lines, catch basins and storm drainage facilities, the construction and improvement of certain streets, roadways, driveways and pedestrian walkways by the widening, grading, draining, curbing and paving thereof, the installation of street lighting and traffic signs and signalization, and the installation of utility lines and improvements, together with all appurtenances necessary and incidental thereto (Ordinance No. 874-94) ("Project No. 30"); and (iv) \$9,900,000 principal amount for constructing, renovating, rehabilitating, furnishing, equipping and otherwise improving, safety facilities, vehicle and equipment maintenance facilities for various City Departments, street maintenance facilities, waste collection facilities, parking facilities, West Side Market facilities, City Hall, and facilities for administrative functions related to the foregoing, and together with all appurtenances necessary and incidental thereto, and to pay the costs of acquiring any necessary interests in real estate therefor (Ordinance No. 875-94) ("Project No. 31"); and

Whereas, this Council finds and determines that: (i) it is necessary and in the best interest of the City to refund (A) the 1988 Various Purpose Bonds that are stated to mature on August 1, 2003 (serial bonds in the aggregate principal amount of \$1,020,000), (B) the 1989 Various Purpose Bonds that are stated to mature on July 1 in the years 2000 (serial bonds in the aggregate principal amount of \$4,135,000) and 2001 (serial bonds in the aggregate principal amount of \$4,165,000), (C) the 1990 Various Purpose Bonds that are stated to mature on October 1 in the years 2002 (serial bonds in the aggregate principal amount of \$1,390,000) and 2003 (serial bonds in the aggregate principal amount of \$1,500,000), (D) the 1991A-B Various Purpose Bonds that are stated to mature on October 1 in the years 2001 (serial bonds in the aggregate principal amounts of \$1,130,000 and \$1,090,000), 2002 (serial bonds in the aggregate principal amounts of \$1,205,000 and \$1,160,000), 2003 (serial bonds in the aggregate principal amounts of \$1,280,000 and \$1,235,000), 2004 (serial bonds in the aggregate principal amounts of \$1,370,000 and \$1,320,000), and 2005 (serial bonds in the aggregate principal amounts of \$1,470,000 and \$1,415,000), (E) the 1991C General Obligation Bonds that are stated to mature on October 1 in the years 2000 (serial bonds in the aggregate principal amount of \$535,000), 2001 (serial bonds in the aggregate principal amount of \$575,000), 2002 (serial bonds in the aggregate principal amount of \$610,000), and 2003 (serial bonds in the aggregate principal amount of \$660,000), (F) the 1992A Various

Purpose Bonds that are stated to mature on July 1 in the years 2001 (serial bonds in the aggregate principal amount of \$1,180,000), 2002 (serial bonds in the aggregate principal amount of \$1,245,000), 2003 (serial bonds in the aggregate principal amount of \$1,320,000), and 2004 (serial bonds in the aggregate principal amount of \$1,400,000), and (G) the 1994 Various Purpose Bonds that are stated to mature on November 15 in the years 2001 (serial bonds in the aggregate principal amount of \$1,615,000), 2002 (serial bonds in the aggregate principal amount of \$1,720,000), 2003 (serial bonds in the aggregate principal amount of \$1,820,000), 2006 (serial bonds in the aggregate principal amount of \$2,175,000), and 2007 (serial bonds in the aggregate principal amount of \$2,310,000) (those outstanding bonds, together with any other outstanding unvoted general obligation bonds of the City designated to be refunded pursuant to Section 1 are collectively referred to as the "Refunded Bonds"); and (ii) to issue the Bonds described in Section 1 to provide funds for that purpose, including the payment of any expenses relating to the refunding of the Refunded Bonds or the issuance of the Bonds; and

Whereas, the Director of Finance, as fiscal officer of this City, has certified to this Council that the estimated life or period of usefulness of each of the Projects was, at the time the original indebtedness for each Project was incurred, at least five years, and that the maximum maturity of that portion of the Bonds to be allocated to each of the Projects is December 31 of the years set forth below for the respective Projects:

Project No.	Year of Last Maturity
1	2010
2	2009
3	2013
4	2011
5	2013
6	2013
7	2010
8	2012
9	2014
10	2010
11	2015
12	2008
13	2026
14	2014
15	2016
16	2015
17	2015
18	2008
19	2008
20	2001
21	2015
22	2016
23	2018
24	2017
25	2010
26	2015
27	2003
28	2012
29	2018
30	2024
31	2018

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

issuance thereunder of unvoted general obligations of the City and the General Bond Ordinance was passed in contemplation of this Ordinance and other ordinances authorizing the issuance of bonds in accordance with the provisions thereof (the "Series Bond Ordinances"); and

Whereas, the issuance of the Bonds is necessary to provide funds to refund the Refunded Bonds which will enable the City to obtain debt service savings which 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 that Bonds in an aggregate principal amount not to exceed Fifty-Five Million Dollars (\$55,000,000) be issued for the purpose of refunding the Refunded Bonds that the Director of Finance determines, based on the advice of the City's financial advisor, would be advantageous to the City to refund due to savings in bond service charges or the restructuring of the currently scheduled bond service charges or otherwise to better serve the interests of the City, and for the purpose of paying any expenses relating to the refunding of the Refunded Bonds and the issuance of the Bonds, including all financing costs within the meaning of Revised Code Section 133.15(B).

The aggregate principal amount of Bonds to be issued shall not exceed \$55,000,000 and shall be in an amount determined by the Director of Finance to be the aggregate principal amount of Bonds that are required to be issued, taking into account any discount from the aggregate principal amount of the Bonds at which they are sold to the Original Purchaser, in order to effect the purpose for which the Bonds are to be issued, including the payment of any expenses relating to the refunding of the Refunded Bonds and the issuance of the Bonds, which amount shall be set forth in the certificate providing for the final terms of the Bonds and the sale of the Bonds and signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Director of Finance may determine in the Certificate of Award that additional maturities or different maturities of the series of unvoted general obligation bonds of the City identified in the preambles of this Ordinance and issued for the purpose of providing funds to pay costs of Project Nos. 1 through 31 may be refunded and thereby constitute Refunded Bonds; provided that in adding or changing such maturities the Director of Finance determines, based on advice from the City's financial advisor, that refunding such maturities generates present value debt service savings to the City or otherwise is in the best interests of the City, taking into account all the factors that the Director of Finance and the City's financial advisor deem relevant to such determination.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Revised

Code Chapter 133, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance, and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Refunding Bonds, Series 1998" or as otherwise determined by the Director of Finance. The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be dated as of August 1, 1998 or such other date specified in the Certificate of Award, but in no event later than December 31, 1998. The Bonds shall bear interest at the rate of six and three-fourths percent (6-3/4%) per year or at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed six and three-fourths percent (6-3/4%) per year, and if the Bonds bear interest at more than one rate per year, then 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 six and three-fourths percent (6-3/4%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on April 1 and October 1 of each year or on the first day of each of two months specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning October 1, 1998, or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The Bonds shall mature in the years and principal amounts as shall be determined by the Director of Finance and specified in the Certificate of Award, 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 January 1, 1999 and no later than August 1, 2000, (iii) the final maturity date of the Bonds shall be no later than the last maturity permitted by law for the Refunded Bonds, 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 for the Refunded Bonds in any fiscal year in which principal was payable on the Refunded Bonds.

The Director of Finance also shall determine, in the Certificate of Award or otherwise, on or prior to the date of delivery of the Bonds to the Original Purchaser, that portion of the aggregate principal amount of the Bonds that is allocable to each Project, and the principal amount of Bonds allocated to each Project that shall be payable annually at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements (as defined

below) on each principal payment date; provided, that (i) the aggregate principal amount of the Bonds allocable to a Project shall be determined by the Director of Finance on a pro rata basis by reference to the respective amount of funds that is required for the refunding of the Refunded Bonds that are allocable to that Project, taking into account any funds other than the proceeds of the Bonds that are available and appropriated for that purpose, (ii) no portion of the aggregate principal amount of Bonds allocated to a Project shall be payable later than the maximum maturity for that portion of the Bonds as certified by the Director of Finance, and (iii) a portion of the aggregate principal amount of Bonds allocated to a Project shall be payable annually at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements on each principal payment date on which the Director of Finance determines in the Certificate of Award or otherwise that principal of Bonds allocated to that Project shall be payable.

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 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 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the Escrow Agent 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) 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 (45th) 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 which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled 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 canceled, shall be credited by the Escrow Agent at 100 percent 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 on any date, or in part on any Interest Payment Date, on the dates and for the prices specified in the Certificate of Award, or the Director of Finance may determine that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity. In the event that the Bonds are callable, the earliest date for optional redemption shall be no later than the tenth anniversary of the first principal payment date and the maximum redemption price shall be no greater than 102% of the principal amount redeemed, plus accrued interest to the redemption date.

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, given upon the direction of the Council of the City by passage of an ordinance. 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 forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Registrar on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the

redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one time, 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, the selection of Bonds to be redeemed, 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 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 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 and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(d) 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 thirty (30) days prior to the date fixed for redemption, 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. 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.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been

deposited in the mail as aforesaid, 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 as aforesaid, 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 thereof 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) at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (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), 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 is hereby adopted by reference, and, except for the third paragraph of Section 13(a) of the General Bond Ordinance (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 of the General Bond Ordinance (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), which are not included in this Ordinance and will not apply to the Bonds, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated herein. Words and terms not otherwise defined herein 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. The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with

Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance 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 or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

Star Bank, N.A., is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent also shall act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 979-98-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the 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"). Subject to the provisions of Section 5, 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 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 such Trustees, shall be offered to the Treasury Investment Account for purchase and, if not purchased by such Account, shall be sold to to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (collectively, the "Original Purchaser"); provided, however, that if, in the reasonable opinion of the Director of Finance, an underwriter is incapable of fully performing its duties or meeting its obligations in its capacity as Original Purchaser with respect to the Bonds, the Director of Finance is hereby authorized and directed, in the name of and on behalf of the City, to take whatever actions may be necessary to terminate that underwriter's standing as 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 and the Original Purchaser's offer to purchase the Bonds as set forth in the Bond Purchase Agreement including: the principal amount of the Bonds, the final purchase price (which shall be not less than 97% of the principal

amount plus accrued interest to their date of delivery), the 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 (if different from those set forth in Section 2) and the portion of the principal amount of the Bonds allocable to each Project. If it is determined advisable by the Director of Finance for the sale of the Bonds, the Director of Finance is authorized to sign agreements with a municipal bond insurer issuing a policy of municipal bond insurance for the Bonds that are not materially inconsistent with this Ordinance. The Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed 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, and procedure, 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 Mayor and the Director of Finance are, and each of them is, hereby further authorized and directed to execute and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell and the Original Purchaser agrees to buy the Bonds, provided that such agreement shall not provide for or require the terms of the Bonds to be inconsistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in the File No. referenced in Section 3 of this Ordinance, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is hereby 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.

If, in the judgment of the Mayor and the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, those officers in their official capacities are authorized to prepare or cause

to be prepared on behalf of the City an Official Statement and any necessary supplements thereto, and on behalf of the City to use and distribute, or authorize the use and distribution of, that Official Statement and any supplements thereto in connection with the original issuance of the Bonds, and each of those officers is authorized to sign on behalf of the City and in his or her official capacity, that Official Statement and any supplements thereto approved by such officer. Those officers are and each of them is authorized to sign and deliver, on behalf of the City and in their official capacities, such certificates in connection with the accuracy of the Official Statement and any supplements thereto as may, in their judgment, be necessary or appropriate. Such officers are also hereby 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").

For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to 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 Mayor and the Director of Finance are 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 an agreement made by the City for the benefit of the holders and beneficial owners of the Bonds in accordance with the SEC Rule. The City's 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the legal counsel and bond or other qualified independent special counsel to the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by any such counsel in determining whether a filing should be made.

Pursuant to Section 133.30(B), 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 1998". 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 hereby 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 hereby 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 the tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as provided pursuant to the General Bond Ordinance which, together with the interest collected on the same, 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 and 5705.51 of the 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. Pursuant to the General Bond Ordinance and in accordance with Chapter 179 of the Codified Ordinances, the proceeds of the Bonds (except for (a) accrued interest thereon and any premium and (b) the proceeds of the Bonds to be applied to pay costs of issuing the Bonds and refunding the Refunded Bonds and costs of any credit enhancement, which amounts shall be specified in the Certificate of Award) shall be deposited in a special and separate bank account with The Huntington National Bank, Cleveland, Ohio and held by that Bank as Escrow Agent, and shall be expended and applied, immediately upon receipt of such proceeds, in the manner provided by the General Bond Ordinance for the payment of debt service charges on

the Refunded Bonds from and after the date of issuance of the Bonds to and including their respective maturity dates.

Pursuant to Section 133.34 of the Revised Code and this Ordinance, the proceeds so deposited and the investment income thereon are pledged for that purpose. Accrued interest and any premium received from the sale of the Bonds shall be transferred to 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. The proceeds of the Bonds to be applied to pay the cost of issuing the Bonds shall be deposited in a separate account in the Bond Retirement Fund pending their application to the payment of such costs.

The Mayor and Director of Finance are authorized and directed to sign and deliver, in the name and on behalf of the Issuer, an agreement (the "Escrow Agreement") between the City and the Escrow Agent, providing for the investment and holding in escrow of the proceeds of the Bonds (except for (a) accrued interest thereon and any premium and (b) the proceeds of the Bonds to be applied to pay issuance costs and costs of any credit enhancement) and for the application of the moneys derived from such investments, in accordance with the General Bond Ordinance and this Ordinance and as otherwise directed by law. Notice of the advance refunding of the Refunded Bonds and any early redemption of Refunded Bonds shall be given in accordance with the terms of the Refunded Bonds and as further provided in the Escrow Agreement. The Refunded Bonds shall be retired at stated maturity or redeemed in accordance with the ordinance authorizing the respective bonds and the Escrow Agreement. The Mayor and Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement from money lawfully available and appropriated or to be appropriated for that purpose. The Mayor and Director of Finance and other appropriate City officials shall execute all documents and take all other actions necessary or appropriate on the part of the City to effect the refunding of the Refunded Bonds in accordance with the General Bond Ordinance and this Ordinance and as otherwise directed by law, and to cause the Refunded Bonds to be deemed paid and discharged.

If U.S. Treasury Securities — State and Local Government Series are to be purchased for the Escrow Fund, the Escrow Agent is hereby specifically authorized to file, on behalf of the City, subscriptions for the purchase and issuance of those U.S. Treasury Securities - State and Local Government Series.

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 sub-accounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, 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. Miscellaneous.

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

(b) All covenants, terms and provisions of the General Bond Ordinance are fully applicable to the Bonds 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 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 of this Ordinance.

Section 10. 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 11. Federal Tax Covenants. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) 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 Bonds to be and to remain excluded from gross income for federal income tax purposes, and (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 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 Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of 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 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 Bonds.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of 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 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 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of 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 Bonds.

Section 12. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 13. 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 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. 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 14. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 15. 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 16. 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 17. 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 for the refunding of the Refunded Bonds which will enable the City to obtain debt service savings and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 980-98.
By Councilman Johnson (by departmental request).

An emergency ordinance providing for the issuance and sale of Bonds in the maximum principal amount of \$4,340,000 for the purpose of providing funds to improve municipal parks and recreation facilities and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds; to authorize agreements with respect to the Bonds; and to authorize the issuance of notes in anticipation of such Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Four Million Three Hundred Forty Thousand Dollars (\$4,340,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has 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 (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

Whereas, the issuance of the Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1, which 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 Four Million Three Hundred Forty Thousand Dollars (\$4,340,000) for the purpose of providing funds to improve municipal parks and recreation facilities by constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving parks and recreation centers and areas, pools, playgrounds, playfields, and related buildings, structures, walkways, pavement and facilities, and providing necessary water systems, drainage, lighting, signage, fixtures, furnishings, equipment, safety modifications and site improvements, together with all preliminary associated research, planning and development and all necessary and incidental appurtenances in all cases, including the acquisition of any required real estate and interests in

real estate, and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds, including all financing costs within the meaning of Section 133.01(K) of the Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of such Bonds.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Parks and Recreation Facilities Improvement Bonds, Series 1998". 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 dated as of August 1, 1998, or such other date, but in no event later than December 31, 1998, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds and signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate of six and three-fourths percent (6-3/4%) per year or at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed six and three-fourths percent (6-3/4%) per year, and if the Bonds bear interest at more than one rate per year, then 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 six and three-fourths percent (6-3/4%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on April 1 and October 1 of each year or on the first day of each of two months specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning October 1, 1998 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on October 1 in twenty (20) substantially equal annual installments, beginning October 1, 1999, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date (hereinafter defined), (ii) the first principal payment on the Bonds shall be no earlier than January 1, 1999 and no later than August 1, 2000, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve 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 fis-

cal 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 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 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the 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) 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 (45th) 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 which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled 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 canceled, shall be credited by

the Escrow Agent at 100 percent 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 on any date, or in part on any Interest Payment Date, on the dates and for the prices specified in the Certificate of Award, or the Director of Finance may determine that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity. In the event that the Bonds are callable, the earliest date for optional redemption shall be no later than the tenth anniversary of the first principal payment date and the maximum redemption price shall be no greater than 102% of the principal amount redeemed, plus accrued interest to the redemption date.

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, given upon the direction of the Council of the City by passage of an ordinance. 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 forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Registrar on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one time, 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, the selection of Bonds to be redeemed, 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 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 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 and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(d) 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 thirty (30) days prior to the date fixed for redemption, 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. 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.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, 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 as aforesaid, 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 thereof 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 with-

out 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) at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (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), 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 is hereby adopted by reference, and, except for the third paragraph of Section 13(a) of the General Bond Ordinance (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 of the General Bond Ordinance (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), which are not included in this Ordinance and will not apply to the Bonds, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated herein. Words and terms not otherwise defined herein 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. The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance 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 or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

Star Bank, National Association, is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent 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 shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 980-98-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the 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"). Subject to the provisions of Section 5, 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 such Trustees, shall be offered to the Treasury Investment Account for purchase and, if not purchased by such Account, shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (collectively, the "Original Purchaser"); provided, however, that if, in the reasonable opinion of the Director of Finance, an underwriter is incapable of fully performing its duties or meeting its obligations in its capacity as Original Purchaser with respect to the Bonds, the Director of Finance is hereby authorized and directed, in the name of and on behalf of the City, to take whatever actions may be necessary to terminate that underwriter's standing as 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 and the Original Purchaser's offer to purchase the Bonds as set forth in the Bond Purchase Agreement, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. If it is determined advisable by the Director of Finance for the sale of the Bonds, the Director of Finance is authorized to sign agreements with a municipal bond insurer issuing a policy of municipal bond insurance for the Bonds that are not materially inconsistent with this Ordinance. The Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and

directed 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, and procedure, 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 Mayor and the Director of Finance are, and each of them is, hereby further authorized and directed to execute and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell and the Original Purchaser agrees to buy the Bonds, provided that such agreement shall not provide for or require the terms of the Bonds to be inconsistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in File No. 980-98-A, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is hereby 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.

If, in the judgment of the Mayor and the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, those officers in their official capacities are authorized to prepare or cause to be prepared on behalf of the City an Official Statement and any necessary supplements thereto, and on behalf of the City to use and distribute, or authorize the use and distribution of, that Official Statement and any supplements thereto in connection with the original issuance of the Bonds, and each of those officers is authorized to sign on behalf of the City and in his or her official capacity, that Official Statement and any supplements thereto approved by such officer. Those officers are and each of them is authorized to sign and deliver, on behalf of the City and in their official capacities, such certificates in connection with the accuracy of the Official Statement and any supplements thereto as may, in their judgment, be necessary or appropriate. Such officers are also hereby authorized to deter-

mine 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").

For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to 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 Mayor and the Director of Finance are 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 Bonds 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the legal counsel and bond or other qualified independent special counsel to the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by any such counsel in determining whether a filing should be made.

Pursuant to Section 133.30(B), 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 1998". 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 hereby 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 hereby 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 the tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as provided pursuant to the General Bond Ordinance which, together with the interest collected on the same, 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 and 5705.51 of the 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. 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) here-

of) 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 sub-accounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, 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 nonpayment 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 purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Four Million Three Hundred Forty Thousand Dollars (\$4,340,000) (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").

Section 10. Term of the Notes. The Notes shall bear interest at such rate, not exceeding five and three-fourths percent (5-3/4%) 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 (5) 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 the financial advisor of the City, 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 (2) years following the date of issuance of the Notes; shall be designated "Parks and Recreation Facilities Improvement Bond Anticipation Notes, Series 1998"; 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 semi-annually 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 (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

Star Bank, National Association, is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as 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. 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"). Subject to the provisions of Section 5, 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 Registrar 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), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 1998". 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.

Section 11. Execution and Payment of the Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that one of such signatures may be a facsimile. Such Notes shall express upon their face the purpose for which they are issued and that they

are issued pursuant to this ordinance, and may be payable in Federal Reserve funds of the United States of America if requested by the Note Purchaser.

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance 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 Notes shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (the "Note Purchaser"). 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.

Section 13. 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 Bonds 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 14. 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.

Said tax shall be and is hereby 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 said year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account, which, together with the interest collected on the same, 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 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance

with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

(a) Any provisions of the Codified Ordinances of the City which 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 of this Ordinance.

Section 17. 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 18. 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, and (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 19. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 20. 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 then 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 21. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 22. 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 23. 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 24. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 981-98.
By Councilman Johnson (by departmental request).

An emergency ordinance providing for the issuance and sale of Bonds in the maximum principal amount of \$1,100,000 for the purpose of providing funds for public improvements of municipal properties and easements in residential neighborhoods and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds; to authorize agreements with respect to the Bonds; and to authorize the issuance of notes in anticipation of such Bonds.

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

Whereas, the Director of Finance, as fiscal officer of the City, has 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 (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

Whereas, the issuance of the Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1, which 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 One Million One Hundred Thousand Dollars (\$1,100,000) for the purpose of providing funds for public improvements of streets and municipal properties and easements in residential neighborhoods by opening, widening, grading, draining, curbing and paving designated streets, constructing sidewalks, curbs and gutters and driveway approaches, installing storm and sanitary sewers, water lines and storm drainage facilities as necessary and installing street lighting and signs, signals, markings and other devices for traffic control together with the provision of all necessary and incidental appurtenances in all cases, including the acquisition of any required real

estate and interests in real estate, and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds, including any financing costs within the meaning of Revised Code Section 133.01(K), and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Revised Code Section 133.15(B) and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of such Bonds.

Section 2. Authority and Terms.

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Residential Neighborhoods Improvement Bonds, Series 1998". 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 dated as of August 1, 1998, or such other date, but in no event later than December 31, 1998, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds and signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate of six and three-fourths percent (6-3/4%) per year or at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed six and three-fourths percent (6-3/4%) per year, and if the Bonds bear interest at more than one rate per year, then 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 six and three-fourths percent (6-3/4%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on April 1 and October 1 of each year or on the first day of each of two months specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning October 1, 1998 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on October 1 in twenty (20) substantially equal annual installments, beginning October 1, 1999, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date (hereinafter defined), (ii) the first principal payment on the Bonds shall be no earlier than January 1, 1999 and no later than August 1, 2000, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve 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 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 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the 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) 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 (45th) 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 which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled 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 canceled, shall be credited by the Escrow Agent at 100 percent 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 on any date, or in part on any Interest Payment Date, on the dates and for the prices specified in the Certificate of Award, or the Director of Finance may determine that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity. In the event that the Bonds are callable, the earliest date for optional redemption shall be no later than the tenth anniversary of the first principal payment date and the maximum redemption price shall be no greater than 102% of the principal amount redeemed, plus accrued interest to the redemption date.

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, given upon the direction of the Council of the City by passage of an ordinance. 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 forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Registrar on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one time, 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, the selection of Bonds to be redeemed, 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 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 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 and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(d) 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 thirty (30) days prior to the date fixed for redemption, 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. 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.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, 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 as aforesaid, 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 thereof 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) at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (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), 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 is hereby adopted by reference, and, except for the third paragraph of Section 13(a) of the General Bond Ordinance (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 of the General Bond Ordinance (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), which are not included in this Ordinance and will not apply to the Bonds, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated herein. Words and terms not otherwise defined herein 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. The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance 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 or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

Star Bank, National Association, is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the

Bonds (the "Registrar"); provided that the Escrow Agent 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 shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 981-98-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the 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"). Subject to the provisions of Section 5, 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 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 such Trustees, shall be offered to the Treasury Investment Account for purchase and, if not purchased by such Account, shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (collectively, the "Original Purchaser"); provided, however, that if, in the reasonable opinion of the Director of Finance, an underwriter is incapable of fully performing its duties or meeting its obligations in its capacity as Original Purchaser with respect to the Bonds, the Director of Finance is hereby authorized and directed, in the name of and on behalf of the City, to take whatever actions may be necessary to terminate that underwriter's standing as 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 and the Original Purchaser's offer to purchase the Bonds as set forth in the Bond Purchase Agreement, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. If it is determined advisable by the Director of Finance for the sale of the Bonds, the Director of Finance is authorized to sign agreements with a municipal bond insurer issuing a policy of municipal bond insurance for the Bonds that are not materially inconsistent with

this Ordinance. The Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed 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, and procedure, 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 Mayor and the Director of Finance are, and each of them is, hereby further authorized and directed to execute and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell and the Original Purchaser agrees to buy the Bonds, provided that such agreement shall not provide for or require the terms of the Bonds to be inconsistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in File No. 981-98-A, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is hereby 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.

If, in the judgment of the Mayor and the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, those officers in their official capacities are authorized to prepare or cause to be prepared on behalf of the City an Official Statement and any necessary supplements thereto, and on behalf of the City to use and distribute, or authorize the use and distribution of, that Official Statement and any supplements thereto in connection with the original issuance of the Bonds, and each of those officers is authorized to sign on behalf of the City and in his or her official capacity, that Official Statement and any supplements thereto approved by such officer. Those officers are and each of them is authorized to sign and deliver, on behalf of the City and in their official capacities, such certificates in connection with the accuracy of the Official Statement and any supplements thereto

as may, in their judgment, be necessary or appropriate. Such officers are also hereby 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").

For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to 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 Mayor and the Director of Finance are 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 Bonds 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the legal counsel and bond or other qualified independent special counsel to the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by any such counsel in determining whether a filing should be made.

Pursuant to Section 133.30(B), 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 1998". 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 hereby 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 hereby 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 the tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as provided pursuant to the General Bond Ordinance which, together with the interest collected on the same, 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 and 5705.51 of the 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. 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 outstand-

ing 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 sub-accounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, 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 nonpayment 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 purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

Section 10. Term of the Notes. The Notes shall bear interest at such rate, not exceeding five and three-fourths per cent (5-3/4%) 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 (5) 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 the financial advisor of the City, 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 (2) years following the date of issuance of the Notes; shall be designated "Residential Neighborhoods Improvement Bond Anticipation Notes, Series 1998"; 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 semi-annually 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 (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

Star Bank, National Association, is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as 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. 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"). Subject to the provisions of Section 5, 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), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 1998". 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.

Section 11. Execution and Payment of the Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that one of such signatures may be a facsimile. Such Notes shall express

upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, and may be payable in Federal Reserve funds of the United States of America if requested by the Note Purchaser.

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance 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 Notes shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (the "Note Purchasers"). 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.

Section 13. 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 Bonds 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 14. 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.

Said tax shall be and is hereby 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 said year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account, which, together with the interest collected on the same, 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 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or

any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

(a) Any provisions of the Codified Ordinances of the City which 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 of this Ordinance.

Section 17. 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 18. 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, and (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 19. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 20. 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 then 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 repre-

sented 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 21. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 22. 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 23. 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 24. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 982-98.
By Councilman Johnson (by
departmental request).

An emergency ordinance providing for the issuance and sale of Bonds in the maximum principal amount of \$2,025,000 for the purpose of providing funds to improve cemeteries and related buildings and structures and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds; to authorize agreements with respect to the Bonds; and to authorize the issuance of notes in anticipation of such Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Two Million Twenty-Five Thousand Dollars (\$2,025,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has 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 (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

Whereas, the issuance of the Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1, which 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 Twenty-Five Thousand Dollars (\$2,025,000) for the purpose of providing funds for improving municipal cemetery facilities, buildings, structures and grounds by constructing, reconstructing, installing, enlarging, renovating, and rehabilitating such facilities, 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, and planting and landscaping, together with all appurtenances necessary and incidental thereto, and includ-

ing the acquisition of any required real estate and interests in real estate, and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds, including any financing costs within the meaning of Revised Code Section 133.01(K), and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Revised Code Section 133.15(B) and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of such Bonds.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Cemeteries Improvement Bonds, Series 1998". 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 dated as of August 1, 1998, or such other date, but in no event later than December 31, 1998, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds and signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate of six and three-fourths percent (6-3/4%) per year or at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed six and three-fourths percent (6-3/4%) per year, and if the Bonds bear interest at more than one rate per year, then 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 six and three-fourths percent (6-3/4%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on April 1 and October 1 of each year or on the first day of each of two months specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning October 1, 1998 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on October 1 in twenty (20) substantially equal annual installments, beginning October 1, 1999, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date (hereinafter defined), (ii) the first principal payment on the Bonds shall be no earlier than January 1, 1999 and no later than August 1, 2000, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve 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 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 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the 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) 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 (45th) 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 which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled 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 canceled, shall be credited by the Escrow Agent at 100 percent 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 on any date, or in part on any Interest Payment Date, on the dates and for the prices specified in the Certificate of Award, or the Director of Finance may determine that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity. In the event that the Bonds are callable, the earliest date for optional redemption shall be no later than the tenth anniversary of the first principal payment date and the maximum redemption price shall be no greater than 102% of the principal amount redeemed, plus accrued interest to the redemption date.

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, given upon the direction of the Council of the City by passage of an ordinance. 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 forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Registrar on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one time, 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, the selection of Bonds to be redeemed, 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 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 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 and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(d) 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 thirty (30) days prior to the date fixed for redemption, 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. 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.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, 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 as aforesaid, 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 thereof 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) at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (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), 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 is hereby adopted by reference, and, except for the third paragraph of Section 13(a) of the General Bond Ordinance (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 of the General Bond Ordinance (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), which are not included in this Ordinance and will not apply to the Bonds, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated herein. Words and terms not otherwise defined herein 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. The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance 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 or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

Star Bank, National Association, is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent 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 shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 982-98-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the 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"). Subject to the provisions of Section 5, 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 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 such Trustees, shall be offered to the Treasury Investment Account for purchase and, if not purchased by such Account, shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (collectively, the "Original Purchaser"); provided, however, that if, in the reasonable opinion of the Director of Finance, an underwriter is incapable of fully performing its duties or meeting its obligations in its capacity as Original Purchaser with respect to the Bonds, the Director of Finance is hereby authorized and directed, in the name of and on behalf of the City, to take whatever actions may be necessary to terminate that underwriter's standing as 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 and the Original Purchaser's offer to purchase the Bonds as set forth in the Bond Purchase Agreement, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. If it is determined advisable by the Director of Finance for the sale of the Bonds, the Director of Finance is authorized to sign agreements with a municipal bond insurer

er issuing a policy of municipal bond insurance for the Bonds that are not materially inconsistent with this Ordinance. The Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed 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, and procedure, 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 Mayor and the Director of Finance are, and each of them is, hereby further authorized and directed to execute and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell and the Original Purchaser agrees to buy the Bonds, provided that such agreement shall not provide for or require the terms of the Bonds to be inconsistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in File No. 982-98-A, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is hereby 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.

If, in the judgment of the Mayor and the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, those officers in their official capacities are authorized to prepare or cause to be prepared on behalf of the City an Official Statement and any necessary supplements thereto, and on behalf of the City to use and distribute, or authorize the use and distribution of, that Official Statement and any supplements thereto in connection with the original issuance of the Bonds, and each of those officers is authorized to sign on behalf of the City and in his or her official capacity, that Official Statement and any supplements thereto approved by such officer. Those officers are and each of them is authorized to sign and deliver, on behalf of the City and in their official capacities,

such certificates in connection with the accuracy of the Official Statement and any supplements thereto as may, in their judgment, be necessary or appropriate. Such officers are also hereby 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").

For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to 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 Mayor and the Director of Finance are 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 Bonds 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the legal counsel and bond or other qualified independent special counsel to the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by any such counsel in determining whether a filing should be made.

Pursuant to Section 133.30(B), 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 1998". 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 hereby 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 hereby 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 the tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as provided pursuant to the General Bond Ordinance which, together with the interest collected on the same, 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 and 5705.51 of the 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. 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 sub-accounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, 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 purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Two Million Twenty-Five Thousand Dollars (\$2,025,000) (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").

Section 10. Term of the Notes.

The Notes shall bear interest at such rate, not exceeding five and three-fourths per cent (5-3/4%) 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 (5) 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 the financial advisor of the City, 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 (2) years following the date of issuance of the Notes; shall be designated "Cemeteries Improvement Bond Anticipation Notes, Series 1998"; 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 semi-annually 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 (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

Star Bank, National Association, is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as 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. 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"). Subject to the provisions of Section 5, 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), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 1998". 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.

Section 11. Execution and Payment of the Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided

that one of such signatures may be a facsimile. Such Notes shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, and may be payable in Federal Reserve funds of the United States of America if requested by the Note Purchaser.

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance 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 Notes shall be sold to SBK- Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (the "Note Purchasers"). 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.

Section 13. 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 Bonds 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 14. 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.

Said tax shall be and is hereby 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 said year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account, which, together with the interest collected on the same, 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 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the

extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

(a) Any provisions of the Codified Ordinances of the City which 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 of this Ordinance.

Section 17. 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 18. 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, and (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 19. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 20. 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 then 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 21. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 22. 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 23. 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 24. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 983-98.
By Councilman Johnson (by departmental request).

An emergency ordinance providing for the issuance and sale of Bonds in the maximum principal amount of \$7,275,000 for the purpose of providing funds for improving buildings and structures housing and providing for the discharge of governmental functions and services and permitting the performance of services utilized by the public or otherwise benefiting the public safety, health and welfare and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds; to authorize agreements with respect to the Bonds; and to authorize the issuance of notes in anticipation of such Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Seven Million Two Hundred Seventy-Five Thousand Dollars (\$7,275,000) (the "Bonds") to finance the cost of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has 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 (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

Whereas, the issuance of the Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1, which 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 Million Two Hundred Seventy-Five Thousand Dollars (\$7,275,000) 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 and permitting the performance of services utilized by the public or otherwise benefiting the public safety, health and welfare, including facilities in, of and for the City Hall, police stations, safety stations, service stations, centers and

facilities, waste collection, transfer and disposal facilities, and the provision of necessary fixtures, furnishings, equipment, appurtenances, utilities and other infrastructure, and site improvements for the purpose, together with all preliminary associated research, planning and development, and for the purpose of paying capitalized interest and all expenses incurred in connection with the issuance of the Bonds, including any financing costs within the meaning of Revised Code Section 133.01(K), and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Revised Code Section 133.15(B) and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of such Bonds.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Public Facilities Improvement Bonds, Series 1998". 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 dated as of August 1, 1998, or such other date, but in no event later than December 31, 1998, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds and signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate of six and three-fourths percent (6-3/4%) per year or at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed six and three-fourths percent (6-3/4%) per year, and if the Bonds bear interest at more than one rate per year, then 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 six and three-fourths percent (6-3/4%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on April 1 and October 1 of each year or on the first day of each of two months specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning October 1, 1998 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on October 1 in twenty (20) substantially equal annual installments, beginning October 1, 1999, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date (hereinafter defined), (ii) the first principal payment on the Bonds shall be no earlier than January 1, 1999 and no later than August 1, 2000, (iii) the final maturity date of the Bonds

shall be no later than twenty (20) years from that date which is twelve 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 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 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the 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) 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 (45th) 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 which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund

Redemption Requirements) or purchased for cancellation and canceled 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 canceled, shall be credited by the Escrow Agent at 100 percent 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 on any date, or in part on any Interest Payment Date, on the dates and for the prices specified in the Certificate of Award, or the Director of Finance may determine that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity. In the event that the Bonds are callable, the earliest date for optional redemption shall be no later than the tenth anniversary of the first principal payment date and the maximum redemption price shall be no greater than 102% of the principal amount redeemed, plus accrued interest to the redemption date.

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, given upon the direction of the Council of the City by passage of an ordinance. 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 forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Registrar on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one time, 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, the selection of Bonds to be redeemed, 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 Regis-

trar. In the case of a partial redemption 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 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 and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(d) 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 thirty (30) days prior to the date fixed for redemption, 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. 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.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, 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 as aforesaid, 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 thereof 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) at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (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), 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 is hereby adopted by reference, and, except for the third paragraph of Section 13(a) of the General Bond Ordinance (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 of the General Bond Ordinance (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), which are not included in this Ordinance and will not apply to the Bonds, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated herein. Words and terms not otherwise defined herein 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. The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance 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 or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her

approval of the form and correctness thereof by his or her manual or facsimile signature.

Star Bank, National Association, is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent 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 shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 983-98-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the 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"). Subject to the provisions of Section 5, 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 such Trustees, shall be offered to the Treasury Investment Account for purchase and, if not purchased by such Account, shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (collectively, the "Original Purchaser"); provided, however, that if, in the reasonable opinion of the Director of Finance, an underwriter is incapable of fully performing its duties or meeting its obligations in its capacity as Original Purchaser with respect to the Bonds, the Director of Finance is hereby authorized and directed, in the name of and on behalf of the City, to take whatever actions may be necessary to terminate that underwriter's standing as 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 and the Original Purchaser's offer to purchase the Bonds as set forth in the Bond Purchase Agreement, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Cer-

tificate. If it is determined advisable by the Director of Finance for the sale of the Bonds, the Director of Finance is authorized to sign agreements with a municipal bond insurer issuing a policy of municipal bond insurance for the Bonds that are not materially inconsistent with this Ordinance. The Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed 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, and procedure, 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 Mayor and the Director of Finance are, and each of them is, hereby further authorized and directed to execute and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell and the Original Purchaser agrees to buy the Bonds, provided that such agreement shall not provide for or require the terms of the Bonds to be inconsistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in File No. 983-98-A, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is hereby 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.

If, in the judgment of the Mayor and the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, those officers in their official capacities are authorized to prepare or cause to be prepared on behalf of the City an Official Statement and any necessary supplements thereto, and on behalf of the City to use and distribute, or authorize the use and distribution of, that Official Statement and any supplements thereto in connection with the original issuance of the Bonds, and each of those officers is authorized to sign on behalf of the City and in his or her official capacity, that Official Statement and

any supplements thereto approved by such officer. Those officers are and each of them is authorized to sign and deliver, on behalf of the City and in their official capacities, such certificates in connection with the accuracy of the Official Statement and any supplements thereto as may, in their judgment, be necessary or appropriate. Such officers are also hereby 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").

For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to 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 Mayor and the Director of Finance are 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 Bonds 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the legal counsel and bond or other qualified independent special counsel to the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by any such counsel in determining whether a filing should be made.

Pursuant to Section 133.30(B), 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 1998". 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 hereby 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 hereby 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 the tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as provided pursuant to the General Bond Ordinance which, together with the interest collected on the same, 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 and 5705.51 of the 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. 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 sub-accounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, 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 nonpayment 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 purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Seven Million Two Hundred Seventy-Five Thousand Dollars (\$7,275,000) (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").

Section 10. Term of the Notes.

The Notes shall bear interest at such rate, not exceeding six and three-fourths per cent (6-3/4%) 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 (5) 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 the financial advisor of the City, 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 (2) years following the date of issuance of the Notes; shall be designated "Public Facilities Improvement Bond Anticipation Notes, Series 1998"; 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 semi-annually 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 (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

Star Bank, National Association, is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as 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. 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"). Subject to the provisions of Section 5, 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), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 1998". 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.

Section 11. Execution and Payment of the Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that one of such signatures may be a facsimile. Such Notes shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, and may be payable in Federal Reserve funds of the United States of America if requested by the Note Purchaser.

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance 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 Notes shall be sold to SBK. Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (the "Note Purchaser"). 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.

Section 13. 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 Bonds 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 14. 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.

Said tax shall be and is hereby 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 said year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account, which, together with the interest collected on the same, 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 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

(a) Any provisions of the Codified Ordinances of the City which 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 of this Ordinance.

Section 17. 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 18. 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, and (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 19. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 20. 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 then legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as

required be 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 21. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 22. 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 23. 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 24. 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 immedi-

ately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 984-98.

By Councilman Johnson (by departmental request).

An emergency ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$11,820,000 for the purpose of providing funds to improve the municipal street system and related facilities and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds; to authorize agreements with respect to the Bonds; and to authorize the issuance of notes in anticipation of such Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Eleven Million Eight Hundred Twenty Thousand Dollars (\$11,820,000) (the "Bonds") to finance the cost of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has 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 (5) years and the maximum maturity of the Bonds is seventeen (17) years; and

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

Whereas, the issuance of the Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Section 1, which 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 Eleven Million Eight Hundred Twenty Thousand Dollars (\$11,820,000) for the purpose of providing funds to improve the municipal street system and related facilities, including streets, expressways, roadways, driveways and pedestrian walkways as designated, by acquiring, constructing, reconstructing, opening, extending, widening, grading, draining, paving, resurfacing, lighting and curbing, installing gutters, sidewalks and related pedestrian improvements, constructing

and improving retaining walls, relocating certain utilities, 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 the payment of all associated preliminary costs and costs of site clearance and all appurtenances necessary and incidental thereto, and to pay capitalized interest and all expenses incurred in connection with the issuance of the Bonds, including any financing costs within the meaning of Revised Code Section 133.01(K), and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Revised Code Section 133.15(B) and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of such Bonds.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Bridges and Roadways Improvement Bonds, Series 1998". 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 dated as of August 1, 1998, or such other date, but in no event later than December 31, 1998, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds and signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate of six and three-fourths percent (6-3/4%) per year or at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed six and three-fourths percent (6-3/4%) per year, and if the Bonds bear interest at more than one rate per year, then 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 six and three-fourths percent (6-3/4%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on April 1 and October 1 of each year or on the first day of each of two months specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning October 1, 1998 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on October 1 in seventeen (17) substantially equal annual installments, beginning October 1, 1999, or according to the schedule set forth in the Certificate of Award, provided that (i)

each principal payment shall occur on an Interest Payment Date (hereinafter defined), (ii) the first principal payment on the Bonds shall be no earlier than January 1, 1999 and no later than August 1, 2000, (iii) the final maturity date of the Bonds shall be no later than seventeen (17) years from that date which is twelve 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 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 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

The aggregate of the moneys to be deposited with the 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) 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 (45th) 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 which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled 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 canceled, shall be credited by the Escrow Agent at 100 percent 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 on any date, or in part on any Interest Payment Date, on the dates and for the prices specified in the Certificate of Award, or the Director of Finance may determine that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity. In the event that the Bonds are callable, the earliest date for optional redemption shall be no later than the tenth anniversary of the first principal payment date and the maximum redemption price shall be no greater than 102% of the principal amount redeemed, plus accrued interest to the redemption date.

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, given upon the direction of the Council of the City by passage of an ordinance. 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 forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Registrar on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one time, 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, the selection of Bonds to be redeemed, 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 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 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 and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(d) 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 thirty (30) days prior to the date fixed for redemption, 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. 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.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Registrar on the redemption date, so as to be available thereon on that date and, if notice of redemption has been deposited in the mail as aforesaid, 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 deposit-

ed in the mail as aforesaid, 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 thereof 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) at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (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), 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 is hereby adopted by reference, and, except for the third paragraph of Section 13(a) of the General Bond Ordinance (pertaining generally to an adjustment of the interest rate in an event of default) and the third paragraph of Section 4 of the General Bond Ordinance (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), which are not included in this Ordinance and will not apply to the Bonds, the General Bond Ordinance is included as a part of this Ordinance as fully as if restated herein. Words and terms not otherwise defined herein 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. The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance 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 or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

Star Bank, National Association, is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent 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 shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 984-98-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the 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"). Subject to the provisions of Section 5, 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 unamortized 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 such Trustees, shall be offered to the Treasury Investment Account for purchase and, if not purchased by such Account, shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (collectively, the "Original Purchaser"); provided, however, that if, in the reasonable opinion of the Director of Finance, an underwriter is incapable of fully performing its duties or meeting its obligations in its capacity as Original Purchaser with respect to the Bonds, the Director of Finance is hereby authorized and directed, in the name of and on behalf of the City, to take whatever actions may be necessary to terminate that underwriter's standing as 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 and the Original Purchaser's offer to purchase the Bonds as set forth in the Bond Purchase Agreement, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from

those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. If it is determined advisable by the Director of Finance for the sale of the Bonds, the Director of Finance is authorized to sign agreements with a municipal bond insurer issuing a policy of municipal bond insurance for the Bonds that are not materially inconsistent with this Ordinance. The Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed 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, and procedure, 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 Mayor and the Director of Finance are, and each of them is, hereby further authorized and directed to execute and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell and the Original Purchaser agrees to buy the Bonds, provided that such agreement shall not provide for or require the terms of the Bonds to be inconsistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in File No. 984-98-A, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is hereby 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.

If, in the judgment of the Mayor and the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, those officers in their official capacities are authorized to prepare or cause to be prepared on behalf of the City an Official Statement and any necessary supplements thereto, and on behalf of the City to use and distribute, or authorize the use and distribution of, that Official Statement and any supplements thereto in connection with the original issuance of the Bonds, and each of those offi-

cers is authorized to sign on behalf of the City and in his or her official capacity, that Official Statement and any supplements thereto approved by such officer. Those officers are and each of them is authorized to sign and deliver, on behalf of the City and in their official capacities, such certificates in connection with the accuracy of the Official Statement and any supplements thereto as may, in their judgment, be necessary or appropriate. Such officers are also hereby 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").

For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees, in accordance with, and as the only obligated person with respect to 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 Mayor and the Director of Finance are 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 Bonds 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the legal counsel and bond or other qualified independent special counsel to the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by any such counsel in determining whether a filing should be made.

Pursuant to Section 133.30(B), 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 1998". 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 hereby 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 hereby 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 the tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account of the Sinking Fund as provided pursuant to the General Bond Ordinance which, together with the interest collected on the same, 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 and 5705.51 of the 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. 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 sub-accounts, in trust for and irrevocably committed solely thereto, sufficient moneys; or

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, 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 nonpre-

sentment 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 purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Eleven Million Eight Hundred Twenty Thousand Dollars (\$11,820,000) (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").

Section 10. Term of the Notes. The Notes shall bear interest at such rate, not exceeding five and three-fourths per cent (5-3/4%) 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 (5) 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 the financial advisor of the City, 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 (2) years following the date of issuance of the Notes; shall be designated "Bridges and Roadways Improvement Bond Anticipation Notes, Series 1998"; 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 semi-annually 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 (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

Star Bank, National Association, is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as 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. 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 Registrar"). Subject to the provisions of Section 5, 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), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 1998". 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.

Section 11. Execution and Payment of the Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that one of such signatures may be a facsimile. Such Notes shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance, and may be payable in Federal Reserve funds of the United States of America if requested by the Note Purchaser.

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance 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 Notes shall be sold to SBK-Brooks Investment Corp., A.G. Edwards & Sons, Inc., Key Capital Markets, Inc., Lehman Brothers, and Pryor, McClendon, Counts & Co., Inc. (the "Note Purchaser"). 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.

Section 13. 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 Bonds 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 14. 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.

Said tax shall be and is hereby 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 said year are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in the Unvoted Tax Supported Obligations Account, which, together with the interest collected on the same, 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 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous. (a) Any provisions of the Codified Ordinances of the City which 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 of this Ordinance.

Section 17. 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 18. 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, and (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 19. Open Meeting Determination. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 20. 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 21. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 22. 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 23. 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 24. 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 affir-

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

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 985-98.

By Councilman Johnson (by departmental request).

An emergency ordinance authorizing and directing the Director of Finance, on behalf of the Clerk of the Cleveland Municipal Court, to enter into contract without competitive bidding with National Underground Storage, Inc. for lease of space for the storage of records, and the purchase of services related to the storage of records.

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

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

Section 1. That notwithstanding any provisions of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Finance, on behalf of the Clerk of the Cleveland Municipal Court, is hereby authorized to enter into a rental agreement with National Underground Storage, Inc. ("NUS") for a period of one year on the basis of its proposal dated April 24, 1998, and shall additionally provide for two one-year options, exercisable by the Director of Finance on behalf of the Cleveland Municipal Court, to extend the agreement for a second and third successive year, based upon the terms proposed in NUS's proposal dated April 24, 1998, for the lease of approximately 8,000 cubic feet of space for the storage of the records of the Cleveland Municipal Court. The rental agreement authorized herein shall be prepared by the Director of Law and its cost shall be payable from Fund No. 01-01-16-0360, Request No. 22651.

Section 2. That it is hereby determined that the within commodities are non-competitive and incidental to the lease of space authorized by Section 1 of this ordinance, and cannot be secured from any source other than NUS. Therefore, the Director of Finance, on behalf of the Cleveland Municipal Court, is hereby authorized and directed to make a written requirement contract with said NUS upon the basis of its proposal dated April 24, 1998, with two (2) options exercisable by the Director of Finance, to renew for additional one-year consecutive terms, and cancellable upon thirty days written notice by said director, for miscellaneous reference and retrieval services, such as filing, file delivery, faxing, photocopying, entry and destruction of records, for a period of one year, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Cleveland Municipal Court.

Section 3. That the cost of the contract hereby authorized shall be paid from Fund No. 01-01-16-0360, Request No. 22651.

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

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 986-98.

By Councilman Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of a criminal and civil filing system, including materials necessary to file and retrieve cases, for the Department of Finance, on behalf of the Cleveland Municipal Court.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of

a municipal department; now, therefore,

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

Section 1. That the Director of Finance, on behalf of the Clerk of the Cleveland Municipal Court, is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of the 1999 criminal and civil filing system, including folders, labels, tabs, envelopes, shelving, and other materials necessary to file and retrieve cases in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Department of Finance, on behalf of the Cleveland Municipal Court. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 22650)

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

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 987-98.

By Councilman Johnson (by departmental request).

An emergency ordinance authorizing and directing the Director of Finance to pay as Moral Claims the sums herein set forth opposite the names of the claimants.

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

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

Section 1. That the Director of Finance is hereby authorized and directed to pay as Moral Claims the sums set forth opposite and names of the following claimants and charged against the fund numbers opposite the names of the claimants:

<u>Claimant</u>	<u>Claim No.</u>	<u>Amount</u>	<u>Division</u>	<u>Fund</u>
Carol & Robert Gray	10439	\$289.57	Water Pollution Control	54 SF 001
Ivan & Connie Allen	10446	1,500.00	Water Pollution Control	54 SF 001
Alan Kovach	10451	65.00	Water Pollution Control	54 SF 001
George Smedley	10460	1,500.00	Water Pollution Control	54 SF 001
Robert Thomas	10475	139.57	Water Pollution Control	54 SF 001

Lee & Willie Curry	10477	1,500.00	Water Pollution Control	54 SF 001
Patrick J. Daley	10478	1,500.00	Water Pollution Control	54 SF 001
Lenny Zemon	10487	47.28	Water Pollution Control	54 SF 001
Marilyn Gonzalez	10507	39.59	Water Pollution Control	54 SF 001
Jason & Lisa Kabay	10509	150.00	Water Pollution Control	54 SF 001
Reginald Lathan as parent of Sharnae & Reginald Lathan, Jr	10320	500.00	Police	01-60-02-0720
C.P. Towing	10358	1,542.51	Police	01-60-02-0720
Keynan Williams	10429	419.95	Police	01-60-02-0720
Geraldine Nigro	10454	250.00	Police	01-60-02-0720
Jon Murchinson & Patrick Garrett	10457	1,163.56	Police	01-60-02-0720
Terry Mountcastle	10458	550.00	Police	01-60-02-0720
Eleanor Billips	10462	500.00	Police	01-60-02-0720
Jesus & Oneida Lozada	10463A	1,000.00	Police	01-60-02-0720
Elizabeth Borowske	10463B	292.60	Police	01-60-02-0720
Enterprise Rent-A-Car	10465	1,927.14	Police	01-60-02-0720
Annie R. Carter	10469	250.00	Police	01-60-02-0720
Brett Portaro	10474	250.00	Police	01-60-02-0720
Eric Balawender	10485	199.99	Police	01-60-02-0720
Kim Barnard	10493	176.34	Police	01-60-02-0720
Catherine Givhan	10500	500.00	Police	01-60-02-0720
Nadia Ahmetovic	10516	500.00	Police	01-60-02-0720
David Van Buren	10517	1,113.21	Police	01-60-02-0720
Crystal Davis	10524	98.00	Police	01-60-02-0720
Mark E. Crawford	10464	1,184.22	Fire	01-60-03-0720
Alfred J. Morris	10490	1,350.00	Fire	01-60-03-0720
Rhonda McJunkins	10496	35.00	Fire	01-60-03-0720
Steven C. Rock	10497	225.00	Fire	01-60-03-0720
Susan Holderness	10505	100.00	Emergency	01-60-04-0720
Morris and Imogene Vowell	10442	100.00	Medical Service	
Ronald Knapp	10450	774.25	Park Maintenance (Urban Forestry)	01-70-02-0720
Walter Lou Rodgers	10461	342.05	Park Maintenance (Urban Forestry)	01-70-02-0720
Joseph Nahra	10455	1,400.00	Property Management	01-70-11-0720
Neil T. Clough	10432	600.00	Park Maintenance and Properties	01-70-10-0720
Rosetta Young	10467	250.00	Park Maintenance and Properties	01-70-10-0720
Earl N. Lewis	10468	311.00	Park Maintenance and Properties	01-70-10-0720
William & Edna Myers	10511	200.63	Park Maintenance and Properties	01-70-10-0720
Linda Lascu	10472	60.00	Municipal Clerk of Courts	01-01-16-0720
Dart Trucking Inc.	10510	3,750.00	Waste Collection	01-40-03-0720
Eugene Rochon & Sherry Guddy	10513	288.37	Waste Collection	01-40-03-0720

Section 2. That the authority of the Director of Finance to pay the amounts set forth in Section 1 of this ordinance is conditioned upon a City-approved written acceptance by the claimant of the City's offer to pay this claim within six months from the effective date of this ordinance. In addition, the Commission awarded certain services to be rendered by the Division of Building and Housing with regard to the demolition of the property located at 951 East 144th Street for claimant Dwight Yancy, Claim No. 10361.

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

Referred to Directors of Finance, Law; Committee on Finance.

**Ord. No. 988-98.
By Councilmen Patmon and Johnson (by departmental request).**

An emergency ordinance authorizing the Director of Public Utilities to employ one or more professional consultants to provide filter performance evaluation of water treatment plants, including related testing.

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

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

Section 1. That the Director of Public Utilities is hereby authorized and directed to employ by contract one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to perform filter performance evaluation of water treatment plants and related testing.

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

Section 2. That the costs for such services herein contemplated shall be paid from Fund No. 52 SF 001, Request No. 24020.

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

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

**Ord. No. 989-98.
By Councilmen Patmon and Johnson (by departmental request).**

An emergency ordinance authorizing and directing the purchase by requirement contract of labor and materials to maintain HVAC equipment, for the Division of Water Pollution Control, Department of Public Utilities.

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

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

Section 1. That the Director of Public Utilities is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of labor and materials to maintain HVAC equipment in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases

and Supplies upon a unit basis for the Division of Water Pollution Control, Department of Public Utilities. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 23028)

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

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

**Ord. No. 990-98.
By Councilmen Westbrook and Johnson (by departmental request).**

An emergency ordinance authorizing and directing the purchase by requirement contract of de-icing agents, for the various divisions of the Department of Port Control, for a period not to exceed two years.

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

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

Section 1. That the Director of Port Control is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of two years for the necessary items of de-icing agents in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Cleveland Hopkins International Airport and the Division of Burke Lakefront Airport, Department of Port Control. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than two years may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and

Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 22552)

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

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

**Ord. No. 991-98.
By Councilmen Westbrook and Johnson (by departmental request).**

An emergency ordinance authorizing and directing the purchase by requirement contract of labor and materials necessary to execute de-icing collection services, for the various divisions of the Department of Port Control, for a period not to exceed two years.

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

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

Section 1. That the Director of Port Control is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of two (2) years for the necessary items of labor and materials necessary to execute de-icing collection services, including but not limited to, analyzing, storing, disposing, reselling recycled glycol, supervising, reporting, maintaining, and renting space, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the various divisions of the Department of Port Control. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than two (2) years may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 22553)

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

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

Ord. No. 992-98.
By Councilmen Westbrook and Johnson (by departmental request).
An emergency ordinance authorizing the Director of Port Control to enter into a Lease By Way of Concession with IMG Motorsports - Cleveland, Inc. for use of certain premises at Burke Lakefront Airport to conduct the Grand Prix auto races.

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

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

Section 1. That the Director of Port Control is authorized to enter into a Lease By Way of Concession ("Lease") with IMG Motorsports - Cleveland, Inc. ("Lessee") for use of certain premises at Burke Lakefront Airport ("Airport") to conduct the Grand Prix auto races during specific two (2) to three (3) day periods each summer of the term of the Lease. The term of such Lease shall be for five (5) years and commence upon the date of execution and, unless sooner cancelled or terminated, shall expire in 2002, after the conduct of the race events and upon payment of all amounts due and performance of all requirements of the Lease by Lessee. Lessee shall pay as rent for the use of the premises as follows:

Year	Rent
1998	\$55,000
1999	60,000
2000	65,000
2001	70,000
2002	75,000

In addition, Lessee shall pay annually five percent (5%) of gross revenues in excess of the "Gross Revenue Threshold" as follows:

Year	Gross Revenue Threshold
1998	\$4,500,000
1999	4,500,000
2000	4,750,000
2001	4,750,000
2002	5,000,000

Section 2. That the Lease authorized herein shall be prepared by the Director of Law and shall contain such other terms and conditions as said Director deems necessary to protect and benefit the public interest.

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

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

Ord. No. 993-98.
By Councilman Cintron.
An emergency ordinance to vacate a portion of Pearl Court S.W. hereinafter described.

Whereas, on the 25th day of September, 1995 the Council of the City of Cleveland adopted Resolution No. 1259-95 declaring its intention to vacate a portion of Pearl Court S.W., hereinafter described.

Whereas, notice of the adoption of the above Resolution No. 1259-95 has been served upon the owners of all the property abutting Pearl Court S.W., affected by said Resolution, notifying the said property owners of the time and place at which objections can be heard before the Board of Revision of Assessments, and

Whereas, on the 3rd day of December, 1997, the Board of Revision of Assessments approved the vacation of Pearl Court S.W., hereinafter described, in accordance with the provisions of Section 176 of the Charter of the City of Cleveland; and

Whereas, this Council is satisfied that there is good cause for vacating Pearl Court S.W., hereinafter described and that it will not be detrimental to the general interest and ought to be made; 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 all that portion of Pearl Court S.W. (25 feet wide) extending Easterly from the Easterly line of West 25th Street (66 feet wide) to that portion of Pearl Court S.W. as vacated by the Council of the City of Cleveland by Ordinance Number 2841-86, passed February 11, 1987, be and the same is hereby vacated.

Section 2. That the Clerk of Council be and she is hereby directed to notify the Auditor of Cuyahoga County of the vacation of all that portion of Pearl Court S.W., herein provided by sending him a copy of this ordinance.

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

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

Ord. No. 994-98.
By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of replacement receptacle lids, for the Division of Waste Collection and Disposal, Department of Public Service.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of replacement receptacle lids for concrete receptacles in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases and Supplies

upon a unit basis for the Division of Waste Collection and Disposal, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 23157)

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

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

Ord. No. 995-98.
By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of International truck parts, including labor if necessary, for the Division of Motor Vehicle Maintenance, Department of Public Service, for a period not to exceed two years.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of two years for the necessary items of International truck parts, including labor if necessary in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Motor Vehicle Maintenance, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than two years may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial

purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 24136)

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

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

Ord. No. 996-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of Ford tractor, mower and construction equipment, including labor if necessary, for the Division of Motor Vehicle Maintenance, Department of Public Service, for a period not to exceed two years.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of two years for the necessary items of Ford tractor, mower and construction equipment, including labor if necessary in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Motor Vehicle Maintenance, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than two years may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 24137)

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

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

Ord. No. 997-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of labor and materials necessary to repair or replace the fuel dispensing pumps and systems necessary for fuel operations, fuel tankers, hydraulic lifts, oil and grease dispensing equipment, stationary air compressor, and for emergency cleanup and replacement of leaking underground storage tanks and systems, for the Division of Motor Vehicle Maintenance, Department of Public Service, for a period not to exceed two years.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of two years for the necessary items of labor and materials necessary to repair or replace the fuel dispensing pumps and systems necessary for fuel operations, fuel tankers, hydraulic lifts, oil and grease dispensing equipment, and stationary air compressor, and for emergency cleanup and replacement of leaking underground storage tanks and systems, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Motor Vehicle Maintenance, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than two years may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 24134)

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

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

Ord. No. 998-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of various automotive, van and truck parts, including labor if necessary, for the Division of Motor Vehicle Maintenance, Department of Public Service.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of various automotive, van and truck parts, including labor if necessary in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Motor Vehicle Maintenance, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 24135)

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

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

Ord. No. 999-98.

By Councilmen Sweeney, Rybka and Johnson (by departmental request).

An emergency ordinance to amend Section 7 of Ordinance No. 1471-96, passed October 14, 1996, relating to the public improvement of rehabilitating and reconstructing portions of Arlington Avenue, East 123rd Street and East 125th Streets.

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

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

Section 1. That Section 7 of Ordinance No. 1471-96, passed October 14, 1996, is hereby amended to read as follows:

Section 7. That the costs of the Improvement, services and property acquisition herein contemplated shall be paid from Fund Nos. **52 SF 001, 54 SF 001, 20 SF 322, 20 SF 312, 20 SF 302 and 20 SF 334**, Request No. 21800, and from the proceeds of any grant funds from the Ohio Public Works Commission.

Section 2. That existing Section 7 of Ordinance No. 1471-96, passed October 14, 1996, is hereby repealed.

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

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

Ord. No. 1000-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance to amend Section 7 of Ordinance No. 1468-96, passed October 14, 1996, relating to the public improvement of rehabilitating and reconstructing Bessemer Avenue from East 65th Street to East 88th Street.

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

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

Section 1. That Section 7 of Ordinance No. 1468-96, passed October 14, 1996, is hereby amended to read as follows:

Section 7. That the costs of the Improvement, services and property acquisition herein contemplated shall be paid from Fund Nos. **52 SF 001, 54 SF 001, 20 SF 322, 20 SF 312, 20 SF 302 and 20 SF 334**, Request No. 21798, and from the proceeds of any grant funds from the Ohio Public Works Commission.

Section 2. That existing Section 7 of Ordinance No. 1468-96, passed October 14, 1996, is hereby repealed.

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

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

Ord. No. 1001-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance to amend Section 7 of Ordinance No. 1467-96, passed October 14, 1996, relating to the public improvement of rehabilitating and reconstructing East 55th Street from Blanche Avenue to Woodland Avenue.

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

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

Section 1. That Section 7 of Ordinance No. 1467-96, passed October 14, 1996, is hereby amended to read as follows:

Section 7. That the costs of the Improvement, services and property acquisition herein contemplated shall be paid from Fund Nos. **52 SF 001, 54 SF 001, 20 SF 322, 20 SF 312, 20 SF 302 and 20 SF 334**, Request No. 21797, and from the proceeds of any grant funds from the Ohio Public Works Commission.

Section 2. That existing Section 7 of Ordinance No. 1467-96, passed October 14, 1996, is hereby repealed.

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

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

Ord. No. 1002-98.

By Councilmen Sweeney, Rybka and Johnson (by departmental request).

An emergency ordinance determining the method of making the public improvement of grinding pavement and authorizing the Director of Public Service to enter into a public improvement requirement contract for the making of such improvement for a period of one year and to extend Contract No. 51520 with Kenmore Construction Co.

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 167 of the Charter of the City of Cleveland, it is hereby determined to make the public improvement of grinding pavement, for the Division of Streets, Department of Public Service, by a public improvement requirement contract duly let to the lowest responsible bidder upon a unit basis for the improvement.

Section 2. That, the Director of Public Service is hereby authorized and directed to enter into a requirement contract for the making of the above public improvement with the lowest responsible bidder after competitive bidding upon a unit basis for the improvement for the period of not to exceed one year. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Director of Public Service until provision is made for the requirements for the entire year.

Section 3. That the Director of Public Service is hereby authorized to extend Contract No. 51520 with Kenmore Construction Company, Inc., with the same terms and conditions, until such time as the City enters into a new contract for pavement grinding or November 30, 1998, whichever is earlier, to provide for additional pavement grinding services.

Section 4. That the cost of said extension shall be paid from Fund No. 10 SF 401, Request No. 21350.

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

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

Ord. No. 1003-98.

By Councilmen Polensek, Willis, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use located at 17901-17903 St. Clair Avenue and 18111 St. Clair Avenue to Collinwood Nottingham Villages Development Corporation.

Whereas, the Director of Parks, Recreation and Properties has requested the sale of City-owned property no longer needed for public use and located at 17901-17903 St. Clair Avenue and 18111 St. Clair Avenue, identified as Permanent Parcels 116-18-010, 116-18-011, 116-18-012, and 116-18-013 to Collinwood Nottingham Villages Development Corporation; and

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

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

Section 1. That notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is hereby found and determined that the following described property is no longer needed for public use:

(Insert legal)

Section 2. That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to sell the above-described property to Collinwood Nottingham Villages Development Corporation, at a price not less than fair market value as determined by the Board of Control.

Section 3. That the conveyance shall be made by official deed to be prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain provisions including such restrictive covenants and reversionary interests as may be specified by the Board of Control or Director of Law protecting the parties as their respective interests require and shall specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs.

Section 4. That the Director of Parks, Recreation and Properties and other appropriate City officials are authorized to prepare and execute such other documents and certificates and take such other action as maybe necessary or appropriate to effectuate the sale authorized by this ordinance.

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

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

Ord. No. 1004-98.

By Councilmen Cimperman, Jackson and Johnson (by departmental request).

An emergency ordinance to amend the title, Sections 1, 4, 5, 6, 7, 8 and 9 of Ordinance No. 1929-96, passed December 16, 1996, relating to the Director of Community Development to apply for a Section 108 Loan from the U.S. Department of HUD in order to provide economic assistance to partially finance the redevelopment of buildings located at 1001 Huron, 1020 Huron and 1104 Prospect; to enter into a Neighborhood Development Investment Fund contract; to enter into contract with Gateway at Playhouse Square Associates, Limited Liability Company; to supplement Ordinance No. 1929-96, passed December 16, 1996, by adding new Section 11; and to renumber existing Section 11 as new Section 12.

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. To amend the title, Sections 1, 4, 5, 6, 7, 8 and 9 of Ordinance No. 1929-96, passed December 16, 1996, to read, respectively, as follows:

An emergency ordinance authorizing the Director of Community Development to apply for a Section 108 Loan from the United States Department of Housing and Urban Development in order to provide economic assistance to partially finance the redevelopment of buildings located at 1001 Huron, 1020 Huron and 1104 Prospect; **authorizing said director to enter into a Neighborhood Development Investment Fund contract with Gateway at Playhouse Square Associates, Limited Liability Company, or its designee; and to enter into a Section 108 contract with Gateway at Playhouse Square Associates, Limited Liability Company, or its designee, to provide economic development assistance for the redevelopment of buildings located at 1101 Huron, 1020 Huron and 1104 Prospect.**

Section 1. That the Director of Community Development is hereby authorized to apply for a loan in the amount of **One Million Nine Hundred Thousand Dollars (\$1,900,000)**, from the United States Department of Housing and Urban Development ("HUD") Section 108 Loan Program ("108 Loan"), for the purposes set forth in the application and according thereto.

Section 4. That the Director of Community Development is hereby authorized to enter into a **Section 108 contract and, the provisions of Ordinance No. 56-94, passed June 13, 1994, to the contrary notwithstanding, a Neighborhood Development**

Investment Fund contract with Gateway at Playhouse Square Associates, Limited Liability Company, or its designee, to provide economic development assistance to redevelop the buildings located at 1001 Huron, 1020 Huron and 1103 Prospect, collectively known as the Gateway at Playhouse Square Project, as housing and retail spaces. **The terms of the Neighborhood Development Investment Fund contract shall comply with the requirements of the Neighborhood Development Investment Program and NDF, as set forth in Section 1 of Ordinance No. 56-94, passed June 13 1994.**

Section 5. That the terms of said loans shall be in accordance with the terms as set forth in the executive summary also contained in the file mentioned in Section 3.

Section 6. That the costs of said contracts shall not exceed an aggregate amount of Two Million Five Hundred Thousand Dollars (\$2,500,000), and shall be paid from Fund Nos. 13 SF 839, **10 SF 501**, Request No. 23057, and from future community development block grant funds and UDAG repayment funds which are appropriated to pay the costs of said contract.

Section 7. That the Director of Community Development is hereby authorized and directed to accept the collateral as set forth in the Executive summary contained in the file referenced in Sections 3 and 5 of this ordinance in order to secure repayments of **both loans**. Any security instruments shall be prepared and approved by the Director of Law.

Section 8. That the Director of Community Development is hereby authorized to accept monies in repayment of **both loans**, and to deposit said monies into Fund Nos. 13 SF 839 and **10 SF 502**.

Section 9. That the Director of Community Development is hereby authorized to accept charges and accept fees in an amount not to exceed the maximum allowable under federal regulations and expend such fees to cover costs incurred in the preparation of the loan applications, closings and servicing of **both loans**, such fees shall be deposited to and expended from Fund Nos. 13 SF 839 and **17 SF 305**.

Section 2. That the existing title, Sections 1, 4, 5, 6, 7, 8 and 9 of Ordinance No. 1929-96, passed December 16, 1996, are hereby repealed.

Section 3. That Ordinance No. 1929-96, passed December 16, 1996, is hereby supplementing by adding new Section 11 to read as follows:

Section 11. That, prior to entering into any Neighborhood Development Investment Fund contract authorized herein, the Director of Finance is required and hereby directed to certify that un-appropriated funds equal to the contract amount set forth in Section 3 of this ordinance have been collected by the City and are available to be allocated to such contract.

Section 4. That existing Section 11 of Ordinance No. 1929-96, passed December 16, 1996, is hereby renumbered to new **"Section 12"**.

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

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

Ord. No. 1005-98.

By Councilmen Coats, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at 14810-12 St. Clair Avenue to Pamela J. Hagler.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 115-13-008, as more fully described in Section 2 below, to Pamela J. Hagler.

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

P.P. No. 115-13-008

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 1 and part of Sublot No. 4 in A.W. Baldwin's Subdivision of part of Original Euclid Township Lot No. 2, as shown by the recorded plat in Volume 23 of Maps, Page 8 of Cuyahoga County Records, and together forming a parcel of land bounded and described as follows:

Beginning on the Southerly line of St. Clair Avenue, N.E., at the Northeasterly corner of Sublot No. 1; thence Westerly along said Southerly line of St. Clair Avenue, N.E., 44.00 feet to the Northwesterly corner of Sublot No. 1; thence Southerly along the Westerly line of said Sublots Nos. 1 and 4, 153-60/100 feet; thence Easterly on a line parallel to the Southerly line of said Sublot No. 1, 44 feet to the Southerly prolongation of the Easterly line of said Sublot No. 1; thence Northerly along said Southerly prolongation and along said Easterly line of Sublot No. 1, 153-60/100 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Also subject to all zoning ordinances, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of

this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

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

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest.

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

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

Ord. No. 1006-98.

By Councilmen Lewis, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at 1890 and 1884 East 70th Street to Louise V. Jackson.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s), 118-07-044 and 118-07-045, as more fully described in Section 2 below, to Louise V. Jackson.

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

P.P. No. 118-07-044

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublot No. 34 in Streater and Adams'

Subdivision of part of Original 100 Acre Lots Nos. 338 and 341, as shown by the recorded plat in Volume 4 of Maps, Page 4 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Northerly line of said Sublot No. 34 at the Northeastly corner of the first parcel of land conveyed to the Frank L. Cody Building Company by deed recorded in Volume 607, Page 457 of Cuyahoga County Records; thence Easterly along the Northerly line of said Sublot No. 34, 167.71 feet to the Westerly line of East 70th Street, (formerly Russell Avenue); thence Southerly along said Westerly line of East 70th Street, 65 feet to the Southeastly corner of said Sublot No. 34; thence Westerly along the Southerly line of Sublot No. 34 to the Southeastly corner of said parcel so conveyed to the Frank L. Cody Building Company; thence Northerly parallel with the Westerly line of East 70th Street about 64.88 feet to the place of beginning, be the same more or less, but subject to all legal highways.

P.P. No. 118-07-045

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 35 in W.S. Steator and D. Adams Subdivision of part of Original One Hundred Acre Lot Nos. 338 and 341 as shown by the recorded plat in Volume 4 of Maps, Page 4 of Cuyahoga County Records, and bounded and described as follows:

Beginning in the Westerly line of East 70th Street (formerly Russell Street) at the Southeastly corner of said Sublot No. 35; thence Northerly along the Westerly line of East 70th Street, 56 feet; thence Westerly parallel with the Southerly line of Sublot No. 36 in said Subdivision 173.45 feet; thence Southerly 6 feet to the Northerly line of a parcel of land conveyed by James L. Higgins, to Mary T. Terry, and husband to the Frank L. Cody Building Company, by deed dated March 9, 1896 and recorded in Volume 629, Page 402; thence Westerly, along a Southerly line of land so conveyed to the Frank L. Cody Building Company, 3 feet; thence Southerly along the Easterly line of land so conveyed to the Frank L. Cody Building Company, 50 feet to the Southerly line of said Sublot No. 35; thence Easterly along the Southerly line of said Sublot No. 35, 176 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

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

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

and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest.

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

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

Ord. No. 1007-98.

By Councilmen Jackson and Johnson (by departmental request).

An emergency ordinance authorizing and directing the Director of Community Development to enter into contract for the demolition of not to exceed four school buildings recently acquired by the City of Cleveland.

Whereas, pursuant to Ordinance No. 383-97, passed December 15, 1997, the Commissioner of Purchases and Supplies acquired sites for the Department of Community Development for land assembly and future redevelopment, several of which sites were Cleveland Public School buildings; 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 Community Development is authorized and directed to make a written contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the demolition of each or all of the following buildings formerly-owned by the Cleveland Public Schools: John Adams High School, located at 3817 Martin Luther King, Jr. Boulevard; West Tech High School, located at 2201 West 93rd Street; Hazeldell School, located at 654 East 124th Street; and Longmeade School, located at 12712 Longmeade Avenue, for the Department of Community Development.

Section 2. That the cost of said contract hereby authorized shall be paid from Fund No. 10 SF 501, Request No. 23111.

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

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

Ord. No. 1008-98.
By Councilmen Jackson and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into contract with the Cleveland Neighborhood Development Corporation to continue the administration of the Industrial Retention and Expansion Program.

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

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

Section 1. That the Director of Economic Development is hereby authorized and directed to enter into contract with the Cleveland Neighborhood Development Corporation ("CNDC") to provide the professional services necessary to administer the Program for the Program participants, in the total sum of Three Hundred Thousand Dollars (\$300,000.00), payable from Fund No. 17 SF 652, Request No. 24286, for the Department of Economic Development.

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.

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

Ord. No. 1009-98.
By Councilmen Cimperman, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an Enterprise Zone Agreement with ITX Corporation to provide for a ten year abatement for certain tangible personal property taxes as an incentive to expand its facilities by acquiring and rehabilitating a building located at 955 West Street, and to assist in the purchase of machinery and equipment in the Cleveland Area Enterprise Zone.

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

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

Whereas, ITX Corporation (the "Enterprise") has proposed to expand its facilities at its operation in the City of Cleveland; and

Whereas, the Enterprise has certified to the City that, but for abatement of personal property taxes the Enterprise would be at a competitive disadvantage by operating at this location; and

Whereas, this ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, safety, property, and welfare and for the further reason that its enactment is a necessary prerequisite to pro-

viding immediate assistance to create and preserve job opportunities and advance and promote commercial and economic development in the City of Cleveland, such assistance being immediately necessary or such jobs will be lost; now, therefore,

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

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

Section 2. That the Director of Economic Development is authorized to enter into an Enterprise Zone Agreement with ITX Corporation to provide for a ten (10) year abatement for certain tangible personal property taxes as an incentive to expand its facilities by acquiring and rehabilitating a building located at 955 West Street, and to assist in the purchase of machinery and equipment in Cleveland, Ohio; said abatement shall be subject to annual review of the Tax Incentive Review Council.

Section 3. That the terms of said tax abatement shall be in accordance with the terms as set forth in the Executive Summary contained in File No. 1009-98-A.

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

Section 5. That the Director of Law shall prepare and approve said agreement and that said agreement shall contain such terms and provisions as he deems necessary to protect the City's interest.

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

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

Ord. No. 1010-98.
By Councilmen Cimperman, Jackson and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a Tax Increment Financing Agreement with Colonial Market Place, LLC, to provide for service payments for the purpose of repayment of the revenue bonds to be issued for the purpose of assisting with the financing of the rehabilitation and redevelopment of the Colonial and Euclid Arcades and to provide for payments to the Cleveland City School District, and to declare certain improvements to real property to be a public purpose.

Whereas, by Ordinance No. 2606-81, passed December 14, 1981, as amended by Ordinance No. 1766-87, passed

November 16, 1987, and as further amended by Ordinance No. 2317-92, passed December 14, 1992, this Council designated the Euclid/Prospect Area ("Area") and approved the Euclid/Prospect Area Community Development Plan ("Plan"); and

Whereas, pursuant to Section 5709.41 of the Ohio Revised Code, improvements to real property within the Area and consistent with the Plan, may be declared to be a public purpose where fee title to such real property was, at one time, held by the City of Cleveland; and

Whereas, pursuant to the authority of Ordinance No. 925-98, passed _____, 1998, the City acquired fee title to certain real property within the Area, which is more particularly described in the documents set forth in the file described in Section 1 of this ordinance (the "Real Property"), prior to adoption of this Ordinance; and

Whereas, pursuant to Section 5709.41 of the Ohio Revised Code, such improvements so declared to be a public purpose may be exempt from real property taxation; and

Whereas, pursuant to Section 5709.42 of the Ohio Revised Code, the owners of such improvements may be required to make annual service payments in lieu of taxes that would have been paid had such improvements not been exempt; and

Whereas, pursuant to Section 5709.41 of the Ohio Revised Code, said exemption may exceed 75% of such improvements for up to thirty (30) years when a portion of the service payments so collected are distributed to the Cleveland City School District ("District") in an amount equal to the amount the District would have received had the improvements not been exempt; and

Whereas, the Cleveland City School District has been notified of the intent to enter into the agreement authorized herein, in compliance with Sections 5709.41(C)(4) and 5709.83 of the Ohio Revised Code; 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 improvements to be constructed in the Area by Colonial Market Place, LLC ("Redeveloper"), as more fully described in the plans contained in File No. 1010-98-A ("Improvements"), on the Real Property, are hereby declared to be a public purpose, for purposes of Section 5709.41 and 5709.42 of the Ohio Revised Code.

Section 2. That one hundred percent (100%) of the Improvements are hereby declared exempt from real property taxation for a period of twenty (20) years; and that in no event shall the exemption period extend beyond December 31, 2021.

Section 3. That, pursuant to Section 5709.42 of the Ohio Revised Code, Redeveloper (or the owners of the Improvements) shall make service payments for a period of twenty (20) years, or such other period necessary to redeem the bonds described in Section 6 of this Ordinance, in lieu of said exempt taxes to the Cuyahoga County Treasurer; said payments shall be charged and collected in the same

manner, and shall be in an amount not less than the taxes that would have been paid, had the Improvements not been exempt from taxation.

Section 4. That pursuant to Section 5709.43 of the Ohio Revised Code there is hereby established an Arcades Urban Redevelopment Tax Increment Equivalent Fund.

Section 5. That a portion of the service payments collected pursuant to Section 3 hereof shall be distributed by the Cuyahoga County Treasurer to the Treasurer of the District in the amount of the taxes that would have been payable to the District had the Improvements not been exempt from taxation.

Section 6. That the balance of the service payments collected pursuant to Section 3 hereof shall be distributed by the Cuyahoga County Treasurer to the Treasurer of the City of Cleveland and deposited in the Arcades Urban Redevelopment Tax Increment Equivalent Fund created by Section 4 hereof to pay the principal (whether at maturity or by prior redemption) of, and interest on revenue bonds issued by the City, pursuant to additional, appropriate legislation of this Council, or other appropriate governmental issuer to finance a portion of the costs of the Improvements, and the costs attributable to the sale of the Bonds, inclusive of attorneys' fees, appraisals and other similar fees.

Section 7. That the Director of Economic Development is hereby authorized to enter into an agreement or agreements with Redeveloper to provide for the exemption and service payments described herein, including agreements securing the payments described in Section 3 of this Ordinance, which agreement or agreements shall contain those terms set forth in the Executive Summary contained in the file referenced in Section 1 of this ordinance and such other terms and conditions as the Directors of Economic Development and Law deem necessary to protect the public interest; and to enter into such other agreement or agreements with such other appropriate governmental issuer, necessary and appropriate to issue and redeem the bonds described in Section 6 of this Ordinance, which agreement(s) shall contain those terms and conditions as the Directors of Economic Development and Law deem necessary to protect the public interest.

Section 8. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in open meetings of this Council, and any of its committees that resulted in such formal action were in meetings open to the public in compliance with the law.

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

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

Ord. No. 1011-98.

By Councilmen Cimperman, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a contract with Flats Realty, Ltd. to provide economic development assistance to expand its facility by acquiring, renovating and purchasing machinery and equipment for its facility located at 955 West Street and 1100 Center Street, Cleveland, Ohio.

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

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

Section 1. That the Director of Economic Development is hereby authorized to enter into a contract with Flats Realty, Ltd. to provide economic development assistance to expand its facility by acquiring, renovating and purchasing machinery and equipment for its facility located at 955 West Street and 1100 Center Street, Cleveland, Ohio.

Section 2. That the terms of said loan shall be in accordance with the terms as set forth in the Executive Summary contained in File No. 1011-98-A.

Section 3. That the costs of said contract shall not exceed Three Hundred Seventy Six Thousand Dollars (\$376,000), and shall be paid from Fund No. 17 SF 008, Request No. 24279.

Section 4. That the Director of Economic Development is hereby authorized and directed to accept the collateral as set forth in the Executive Summary contained in the file referenced in Section 2 of this ordinance in order to secure repayment of said loan. Any security instrument shall be prepared and approved by the Director of Law.

Section 5. That the Director of Economic Development is hereby authorized to accept monies in repayment of the loan and to deposit said monies in Fund No. 17 SF 006.

Section 6. That the Director of Economic Development is hereby authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and expend such fees to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. Such fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 7. That the Director of Law is hereby authorized to prepare said contract and such other documents as may be appropriate to complete the transaction.

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

Referred to Directors of Economic Development, City Planning Commission, Finance, Law; Com-

mittees on Community and Economic Development, City Planning, Finance.

Ord. No. 1012-98.

By Councilmen Coats, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a contract with S.R.S. Company, Inc. to provide economic development assistance to purchase and renovate real property located at 12911 Taft Avenue, Cleveland, Ohio.

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

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

Section 1. That the Director of Economic Development is hereby authorized to enter into a contract with S.R.S. Company, Inc. to provide economic development assistance to purchase and renovate real property located at 12911 Taft Avenue, Cleveland, Ohio.

Section 2. That the terms of said loan shall be in accordance with the terms as set forth in the Executive Summary contained in File No. 1012-98-A.

Section 3. That the costs of said contract shall not exceed Two Hundred Forty Thousand Dollars (\$240,000), and shall be paid from Fund No. 17 SF 008, Request No. 24280.

Section 4. That the Director of Economic Development is hereby authorized and directed to accept the collateral as set forth in the Executive Summary contained in the file referenced in Section 2 of this ordinance in order to secure repayment of said loan. Any security instrument shall be prepared and approved by the Director of Law.

Section 5. That the Director of Economic Development is hereby authorized to accept monies in repayment of the loan and to deposit said monies in Fund No. 17 SF 006.

Section 6. That the Director of Economic Development is hereby authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and expend such fees to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. Such fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 7. That the Director of Law is hereby authorized to prepare said contract and such other documents as may be appropriate to complete the transaction.

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

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

Ord. No. 1013-98.
By Councilmen Jones, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an Enterprise Zone Agreement with Helima Rollform, LLC, to provide for a ten year abatement for certain tangible personal property and real estate taxes as an incentive to acquire and relocate a tubing mill operation and to purchase equipment and machinery to 4500 Lee Road located in the Cleveland Area Enterprise Zone.

Whereas, pursuant to Ordinance No. 948-95, passed June 19, 1995, this Council designated an area which is in the City of Cleveland and described in File No. 948-95-A, as the Cleveland Area Enterprise Zone (the "Zone") pursuant to Chapter 5709 of the Ohio Revised Code; and Whereas, in August, 1995, the Director of Development of the State of Ohio determined that the Zone contains the characteristics set forth in Section 5709.61(A) of the Revised Code and certified said area as an "Urban Jobs and Enterprise Zone" pursuant to Chapter 5709 of the Revised Code; and

Whereas, Helima Rollform, LLC (the "Enterprise") has proposed to expand its facilities at its operation in the City of Cleveland; and

Whereas, the Enterprise has certified to the City that, but for abatement of personal property and real estate taxes the Enterprise would be at a competitive disadvantage by operating at this location; and

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

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

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

Section 2. That the Director of Economic Development is authorized to enter into an Enterprise Zone Agreement with Helima Rollform, LLC, to provide for a ten (10) year abatement for certain tangible personal property and real estate taxes as an incentive to acquire and relocate a tubing mill operation from South Carolina to 4500 Lee Road, Cleveland, Ohio, and to purchase equipment and machinery; said abatement shall be subject to annual review of the Tax Incentive Review Council.

Section 3. That the terms of said tax abatement shall be in accordance with the terms as set forth in the Executive Summary contained in File No. 1013-98-A.

Section 4. That the Director of Economic Development is hereby authorized to charge and accept fees in an amount not to exceed the

maximum allowable under Chapter 5709 of the Revised Code and such funds are hereby appropriated for the purposes set forth in Chapter 5709 of the Revised Code. Such fees shall be deposited to and expended from fund No. 17 SF 305, Loan Fees Fund.

Section 5. That the Director of Law shall prepare and approve said agreement and that said agreement shall contain such terms and provisions as he deems necessary to protect the City's interest.

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

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

Ord. No. 1014-98.
By Councilmen Polensek, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into a Neighborhood Development Investment Fund contract with Cleveland Range, Inc., to provide economic development assistance to partially finance the renovation and asbestos abatement for property located at 17901-03 and 18111 St. Clair Avenue, Cleveland, Ohio.

Whereas, through Ordinance No. 56-94, passed June 13, 1994, the City established the Neighborhood Development Investment Program and the Neighborhood Development Investment Fund (NDIF) for the purpose of stimulating the development of major opportunities for job creation, retention, and expansion in the City's neighborhoods; 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, subject to the provisions of Section 8 of this Ordinance, the Director of Economic Development is hereby authorized to enter into a Neighborhood Development Investment Fund contract with Cleveland Range, Inc., to provide economic development assistance to partially finance the renovation and asbestos abatement for property located at 17901-03 and 18111 St. Clair Avenue, Cleveland, Ohio.

Section 2. That the terms of said contract shall comply with the requirements of the Neighborhood Development Investment Program and NDIF, as set forth in Section 1 of Ordinance No. 56-94 passed June 13, 1994, and shall be in accordance with the terms as set forth in the Executive Summary contained in File No. 1014-98-A.

Section 3. That the costs of said contract shall not exceed Five Hundred Thousand Dollars (\$500,000.00), and shall be paid from Fund No. 10 SF 501, RL 24283.

Section 4. That the Director of Economic Development is hereby authorized and directed to accept

collateral as set forth in the Executive Summary contained in the file referenced in Section 2 of this ordinance in order to secure repayment of said loan. Any security instrument shall be prepared and approved by the Director of Law.

Section 5. That the Director of Economic Development is hereby authorized to accept monies in repayment of such loan and to deposit said monies in Fund No. 10 SF 502.

Section 6. That the Director of Economic Development is hereby authorized to charge and accept fees in an amount not to exceed the maximum allowable under federal regulations and expend such fees to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. Such fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 7. That the Director of Law is hereby authorized to prepare said contract and such other documents as may be appropriate to complete the transaction.

Section 8. That, prior to entering into any contract authorized herein, the Director of Finance is required to certify that un-appropriated funds equal to the contract amount set forth in Section 3 of this ordinance have been collected by the City and are available to be allocated to such contract

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

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

Ord. No. 1015-98.
By Councilmen White and Johnson (by departmental request).

An emergency ordinance authorizing and directing the Director of Personnel and Human Resources to enter into contract with Applied Benefits Research, Inc. dba COBRASERV for professional services necessary to administer the City's COBRA program for the Department of Personnel and Human Resources, for a period of one year, with a one-year option to renew.

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

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

Section 1. That the Director of Personnel and Human Resources is hereby authorized and directed to enter into contract with Applied Benefits Research, Inc. dba COBRASERV for professional services necessary to administer the City's COBRA program on the basis of its proposal dated March 19, 1998, for a period of one year, with an option to renew for an additional one-year period, exercisable by the Director of Personnel and Human Resources.

Section 2. That the costs for such services shall be paid from Fund No. 01-04-02-0324, Request No. 23679.

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

Referred to Directors of Personnel and Human Resources, Finance, Law; Committees on Employment, Affirmative Action and Training, Finance.

Ord. No. 1016-98.
By Councilman Cimperman (by request).

An emergency ordinance establishing the Mall Historic Landmark District and repealing Ordinance No. 2948-89 passed November 12, 1990. (Map Change No. 1977, Sheet No. 1)

Whereas, the Cleveland Landmarks Commission (the "Commission") pursuant to Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, has proposed the designation of the Mall Historic Landmark District as a landmark; and

Whereas, a public hearing pursuant to Chapter No. 161.04 (b)(2) is scheduled for June 11, 1998 to discuss the proposed designation of the Mall Historic Landmark District as a landmark; and

Whereas, the Commission has recommended designation of the Mall Historic Landmark District as a landmark and has set forth certain findings of fact constituting the basis for its decision; and

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

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

Section 1. That the following area, outlined in red on the map attached hereto be and the same is hereby designated THE MALL HISTORIC LANDMARK DISTRICT:

Beginning at the intersection of the center line of East 9th Street and the center line of Lakeside Avenue, N.E.; thence southwesterly along said center line of Lakeside Avenue, N.E. to its intersection with a line two hundred and eighty-five (285) feet northeast of the centerline of East 6th Street; thence southeasterly along said line which is two hundred and eighty-five (285) feet northeast of the centerline of East 6th Street to the center line of Rockwell Avenue, N.E.; thence northeasterly along said center line of Rockwell Avenue N.E. to its intersection with the northwesterly extension of a line located one hundred thirty-two (132) feet ten and one half (10-1/2) inches southwest of the southwesterly line of East 9th Street; thence southeasterly along said northwesterly extension and along said line which is parallel to and one hundred thirty-two (132) feet ten and one half (10-1/2) inches southwest of said southwesterly line of East 9th Street and along its southeasterly extension to the cen-

ter line of Superior Avenue, N.E.; thence southwesterly along said center line of Superior Avenue, N.E. to its intersection with the southeasterly prolongation of the center line of East 2nd Street; thence northwesterly along said southeasterly prolongation of and along said center line of East 2nd Street, and along its northwesterly extension to the center line of St. Clair Avenue, N.E.; thence southwesterly along said center line of St. Clair Avenue, N.E. to its intersection with the center line of Ontario Street; thence northwesterly along said center line of Ontario Street to the center line of Lakeside Avenue, N.E.; thence southwesterly along said center line of Lakeside Avenue, N.E. to the center line of West 3rd Street; thence northwesterly along said center line of West 3rd Street to its intersection with the southwesterly extension of the northwesterly line of land appropriated by the City of Cleveland February 2, 1877, Docket "H", No. 1161, Certified December 12, 1928 (said northwesterly line of said land appropriated by the City of Cleveland being located approximately four hundred seventy-five and fifty-four thousandths (475.054) feet northwest of the northwesterly line of Lakeside Avenue, N.E.); thence northeasterly along said northwesterly line of said land appropriated by the City of Cleveland to a point located on the southwesterly line of East 9th Street (said point being located approximately four hundred sixty-seven and four hundred ten thousandths (467.410) feet northwest of said northwesterly line of Lakeside Avenue), N.E. and along its northeasterly extension to the center line of East 9th Street; thence southeasterly along said center line of East 9th Street to the place of beginning.

Section 2. That The Mall Historic Landmark District, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, be and it hereby is designated a landmark pursuant to Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

Section 3. That the designation of the area set forth in Section 1 hereof as the Mall Historic Landmark District shall be noted on the Building Zone Maps of the City of Cleveland on file in the office of the Clerk of Council and on file in the office of the City Planning Commission by the appropriate person designated for such purpose by the City Planning Commission. Further, a copy of the map attached hereto shall be available for public inspection in the office of the Cleveland Landmarks Commission. Ordinance No. 2948-89 passed November 12, 1990 is hereby repealed.

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

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

FIRST READING ORDINANCE REFERRED

Ord. No. 1017-98.

By Councilman Melena.

An ordinance to change the Use and Area Districts of lands on the southerly side of Bridge Avenue, N.W. between east of West 54 Street and west of West 52 Street. (Map Change No. 1975, Sheet No. 1)

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

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

Beginning at the intersection of the northerly extension of a line located thirty seven and five tenths (37.5) feet east of the easterly line of West 54 Street and the center line of Bridge Avenue, N.W.; thence easterly along said center line of Bridge Avenue, N.W. to its intersection with the northerly extension of a line located one hundred thirty two (132) feet west of the westerly line of West 52 Street; thence southerly along said northerly extension and along said line which is parallel to and one hundred thirty two (132) feet west of said westerly line of West 52 Street to its intersection with a line located approximately ninety and eight hundredths (90.08) feet south of the southerly line of Bridge Avenue, N.W.; thence westerly along said line which is parallel to and approximately ninety and eight hundredths (90.08) feet south of said southerly line of Bridge Avenue, N.W. to its intersection with said line located thirty seven and five tenths (37.5) feet east of said easterly line of West 54 Street; thence northerly along said line which is parallel to and thirty seven and five tenths (37.5) feet east of said easterly line of West 54 Street and along its northerly extension to the place of beginning,

and as outlined in red on the map hereto attached, be and the same are hereby changed to a Multi Family Use District and a 'C' Area District.

Section 2. That said changed designation of lands described in Section 1 shall be identified as Map Change No. 1975, Sheet No. 1 and shall be made upon the Building Zone Maps of the City of Cleveland on file in the office of the Clerk of Council and on file in the office of the City Planning Commission by the appropriate person designated for such purpose by the City Planning Commission.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

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

FIRST READING EMERGENCY RESOLUTIONS REFERRED

Res. No. 1018-98.

By Councilman Sweeney (by request).

An emergency resolution declaring the intention to vacate a portion of Old (Relocated) Grayton Road.

Whereas, this Council; is satisfied that there is good cause to vacate a portion of Old (Relocated) Grayton Road as hereinafter described, and

Whereas, this resolution constitutes an emergency measure in that the same provides 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 it hereby declares its intention to vacate all those portions of the following described real property:

OLD(RELOCATED) GRAYTON ROAD PROPOSED STREET VACATION

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and known as being all of that part of Old Grayton Road (60.00 feet wide), as shown by the Grayton Road Alteration and Improvement Plan No. M-4493 recorded in Volume 192, Page 41 of Cuyahoga County Map Records, and sometimes known as Relocated Grayton Road, lying Northerly of the Northeasterly prolongation of the most Southerly line of a parcel of land conveyed to Emerald Research Park Ltd. by deed dated April 24, 1997, and recorded in Volume 97-3626, Page 47 of Cuyahoga County Records, and lying Southwesterly of the following described line:

Commencing in the centerline of Old Grayton Road as aforesaid at a point of curvature therein at station 27+70.93; thence North 75°-08'-00" East, and at right angles to said centerline, 30.00 feet to the Easterly right-of-way thereof; thence Northeasterly along said right-of-way being the arc of a curve deflecting to the right, and having a radius of 5699.58 feet, a tangent of 109.74 feet, a chord bearing North 23°-40'-04" East, 219.44 feet, an arc distance of 219.45 feet to the principal place of beginning of the following described line:

Thence Northeasterly along the arc of a curve deflecting to the right and having a radius of 1530.08 feet, a tangent of 149.81 feet, a chord bearing North 14°-37'-39" East, 298.20 feet, an arc distance of 298.67 feet to the Westerly right-of-way of Old Grayton Road as aforesaid and the Northwesterly terminus of said line.

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.

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

FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED

Ord. No. 970-98.
By Councilmen Britt, Lewis and Patmon.

An emergency ordinance consenting and approving the issuance of a permit for the Cleveland Clinic Run on June 20, 1998, sponsored by Cleveland Clinic and Hermes Race Systems.

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 Cleveland Clinic Run, sponsored by Cleveland Clinic and Hermes Race Systems, on June 20, 1998, starting at East 96th Street to Euclid Ave., Euclid Ave. to East 105th Street, East 105th Street to Martin Luther King Blvd., Martin Luther King Blvd. to Ansel Rd. and return the same route, 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 or 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.

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

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

Ord. No. 971-98.
By Councilman Cintron.
An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at rear of 2017 West 45th Street to Lakeside Blueprint Incorporated.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 006-20-068 and 006-20-140, as more fully described in Section 2 below, to Lakeside Blueprint Incorporated.

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

P.P. No. 006-20-068

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and being part of Sublot No. 4 in Taylor and Hoyts' Subdivision of part of Original Brooklyn Township

Lots Nos. 48 and 49 as shown by the recorded plat in Volume 1 of Maps, Page 20 of Cuyahoga County Records, and beginning on the Easterly line of West 45th Street (formerly Taylor Street) at the Northwesterly corner of said Sublot No. 4; thence Northeasterly along the Northerly line of said Sublot, 90 feet; thence Southerly 37.73 feet to a point which is distant Northerly at right angles 39.52 feet from the Southerly line of said Sublot No. 4 and distant Easterly at right angles 85.93 feet from the Easterly line of West 45th Street; thence Southwesterly 88.12 feet to a point in the Easterly line of West 45th Street distant Northerly 20 feet from the Southwesterly corner of said Sublot No. 4; thence Northerly along the Easterly line of West 45th Street 20 feet to the place of beginning, according to a survey of Charles W. Root, Civil Engineer, made April, 1918, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to Zoning Ordinances, if any.

P.P. No. 006-20-140

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 4 in Taylor and Hoyts' Subdivision of part of Original Brooklyn Township Lots Nos. 48 and 49 as shown by the recorded plat of said Subdivision in Volume 1 of Maps, Page 20 of Cuyahoga County Records and bounded and described as follows:

Beginning at the Southeasterly corner of said Sublot No. 4; thence Westerly along the Southerly line of said Sublot No. 4, 46 feet to a point distant Easterly 90 feet front the Southwesterly corner of said Sublots; thence Northerly 77.47 feet to a point in the Northerly line of said Sublot No. 4 distant Northeasterly 90 feet from the Northwesterly corner thereof; thence Northeasterly along the Northerly line of said Sublot; 60.92 feet to the Northeasterly corner thereof; thence Southerly along the Easterly line of said Sublot 102.16 feet to the place of beginning, according to the survey of Charles W. Root, C.E. made April, 1918, be the same more or less, but subject to all legal highways.

Zoning Ordinances, if any.

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

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

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest.

Section 6. That this ordinance is hereby declared to be an emergency

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

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

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

Ord. No. 972-98.

By Councilman Melena.

An emergency ordinance consenting and approving the issuance of a permit for the St. Augustine Run on June 6, 1998, sponsored by Hermes Race Systems.

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 St. Augustine Run, sponsored by Hermes Race Systems, on June 6, 1998, starting at Detroit Ave. and W. 87th, Detroit to Lake Ave., Lake Ave. to West Blvd., West Blvd. into Lakefront State Park and return the same route, 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 or 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.

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

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

Ord. No. 977-98.

By Councilman Westbrook.

An emergency ordinance directing the Director of Finance to issue payment on Voucher No. 104155.

Whereas, Section 111.071 of the Codified Ordinances of Cleveland, Ohio, 1976, authorizes the President of Council on the behalf of City Council to enter into contracts with professional consultants to provide assistance to the members of Council in matters concerning the performance of their official business; and

Whereas, pursuant to Section 111.071, the President of Council employed Watson & Watson to provide professional consulting services in connection with issues relating to

the U. S. Department of Housing and Urban Development and the City of Cleveland; and

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

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

Section 1. That the Director of Finance is hereby directed to issue payment on Voucher No. 104155, dated March 18, 1998, for professional consulting services related to the U. S. Department of Housing and Urban Development and the City of Cleveland.

Section 2. That costs of said voucher shall be charged against Index Code 210005, SF 320.

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

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

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

FIRST READING EMERGENCY RESOLUTIONS READ IN FULL AND ADOPTED

Res. No. 973-98.

By Councilman Dolan.

An emergency resolution withdrawing objection to the transfer of ownership of a C1 Liquor Permit to 15520 Munn Rd., and repealing Res. No. 376-98, objecting to said transfer of ownership.

Whereas, this Council objected to the transfer of ownership of a C1 Liquor Permit to 15520 Munn Rd., by Res. No. 376-98, adopted March 2, 1998; and

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

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

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

Section 1. That objection to the transfer of ownership of a C1 Liquor Permit to 15520 Munn Rd., be and the same is hereby withdrawn and Res. No. 376-98, containing said objection, be and the same is hereby repealed and that this Council consents to the immediate transfer of ownership thereof.

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

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

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

Res. No. 974-98.

By Councilmen Dolan, Patmon, Gordon, Melena, Moran, Westbrook, Jackson, Zone, Lewis, Cimperman, Sweeney, Cintron, White, Britt, Willis, Polensek, Rybka, Coats, Robinson, Johnson and Jones.

An emergency resolution requesting that the FirstEnergy Corporation withdraw recently issued layoff notices to its employees, and return to the bargaining table to reach a fair labor agreement.

Whereas, the FirstEnergy Corporation's decision to terminate negotiations with the Utility Workers Union of America, Local 270 and implement a contract is contrary to the idea of fairness to workers and the federally recognized collective bargaining process; and

Whereas, the elimination of 485 jobs by the FirstEnergy Corporation, will result in lower electric service levels for Cleveland residents; and

Whereas, the reduction in service caused as a result of these layoffs could result in potentially dangerous delays in the restoration of electric power to Cleveland residents in the event of an emergency; and

Whereas, the reduction in service caused as a result of these layoffs may result in the FirstEnergy Corporation's noncompliance with minimum electric service standards established by the Public Utilities Commission of Ohio; and

Whereas, the elimination of these positions will unfairly harm working families and the Cleveland community; and

Whereas, the Utility Workers Union of America, Local 270, has sought an immediate court injunction to prevent the elimination of these positions and has sought relief from the National Labor Relations Board;

Now, therefore, be it resolved by the Council of the City of Cleveland:

Section 1. That the FirstEnergy Corporation should immediately withdraw all job layoff notices issued to its employees as part of the planned elimination of 485 jobs announced on Wednesday, May 27, 1998.

Section 2. That the FirstEnergy Corporation should return to the bargaining table with the Utility Workers Union of America, Local 270, in order to reach a fair labor agreement in accordance with federally recognized labor negotiation processes.

Section 3. That the Clerk of Council be and she is hereby directed to transmit certified copies of this resolution to Anthony Alexander, President of the FirstEnergy Corporation, Dan DiNicola, Spokesman for FirstEnergy Corporation, John Ryan, President of the Cleveland AFL-CIO, and David Kotecki, President of the Utilities Workers Union of America, Local 270.

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

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

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

Res. No. 975-98.
By Councilman Rybka.
An emergency resolution objecting to the issuance of a C1 Liquor Permit to 3125 E. 65th St.

Whereas, Council has been notified by the Director of Liquor Control of an application for the issuance of a C1 Liquor Permit to Permit No. 1783507 Idell Cowan, DBA All My Children Mini Mart, 3125 E. 65th St., Cleveland, Ohio 44127; and

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

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

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

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

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

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

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

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

Section 1. That Council does hereby record its objection to the issuance of a C1 Liquor Permit to Permit No. 1783507, Idell Cowan, DBA All My Children Mini Mart, 3125 E. 65th St., Cleveland, Ohio, 44127 and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

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

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

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

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

Res. No. 976-98.
By Councilman White.
An emergency resolution objecting to the transfer of ownership of a D5 and D6 Liquor Permit to 3661 E. 93rd St., 1st Fl. & Bsmt.

Whereas, Council has been notified by the Director of Liquor Control of an application for the transfer of ownership of a D5 and D6 Liquor Permit from Permit No. 6418414, 93rd Aetna Food Market Inc., DBA 93rd Aetna Food Market, 3661 E. 93rd St., 1st Fl. & Bsmt., Cleveland, Ohio 44105, to Permit No. 0072349, Aetfood Inc., DBA Aetna Food Market, 3661 E. 93rd St., 1st Fl. & Bsmt., Cleveland, Ohio 44105; and

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

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

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

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

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

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

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

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

Section 1. That Council does hereby record its objection to the transfer of ownership of a D5 and D6 Liquor Permit from Permit No. 6418414, 93rd Aetna Food Market Inc., DBA 93rd Aetna Food Market, 3661 E. 93rd St., 1st Fl. & Bsmt., Cleveland, Ohio 44105, to Permit No. 0072349, Aetfood Inc., DBA Aetna Food Market, 3661 E. 93rd St., 1st Fl. & Bsmt., Cleveland, Ohio 44105 and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

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

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force

immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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

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

SECOND READING EMERGENCY ORDINANCES PASSED

Ord. No. 82-98.

By Councilmen Gordon and Johnson (by departmental request).

An emergency ordinance authorizing and directing the Director of Public Health to enter into contract with Cuyahoga Community College to provide Ohio Peace Officer Training to comply with State minimum standards for jails for not to exceed forty (40) students.

Approved by Directors of Public Health, Finance, Law; Recommended by Committees on Public Health, Finance.

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

Ord. No. 317-98.

By Councilmen Gordon and Johnson (by departmental request).

An emergency ordinance to amend Section 1 of Ordinance No. 1646-97, passed October 20, 1997, relating to a grant from the Alcohol and Drug Addiction Services Board of Cuyahoga County for the 1998 Drug Prevention, Treatment and Intervention Program.

Approved by Directors of Public Health, Finance, Law; Recommended by Committees on Public Health, Finance.

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

Ord. No. 471-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of reclaimer asphalt rejuvenating agent, for the Division of Streets, Department of Public Service.

Approved by Directors of Public Service, Finance, Law; Relieved of Committee on Public Service; Recommended by Committee on Finance, when, amended as follows:

1. Strike the title and Section 1 in their entirety, and insert, respectively, in lieu thereof the following:

"An emergency ordinance authorizing and directing the Director of Public Service to enter into a requirement contract without competitive bidding with Pavement Technology, Inc., for the purchase of labor and materials necessary to apply reclaimer asphalt rejuvenating agent on various City streets, for the Division of Streets, Department of Public Service.

Section 1. That it is hereby determined that the within commodities are non-competitive and cannot be secured from any source other than Pavement Technology, Inc. Therefore, the Director of Public Service is hereby authorized and directed to make a written requirement contract for the period of one year with said Pavement Technology, Inc. for the labor and materials necessary to apply reclaimer asphalt rejuvenating agent on various City streets, to

be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Streets, Department of Public Service."

Amendment agreed to.

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

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

Ord. No. 478-98.

By Mayor White and Councilmen Willis, Jackson, Rybka and Johnson (by departmental request).

An emergency ordinance authorizing the Mayor and the Directors of Parks, Recreation and Properties and Economic Development to enter into a Purchase Agreement with OfficeMax, Inc. for approximately 34.4 acres of City-owned property located in the Village of Highland Hills.

Approved by Directors of Parks, Recreation and Properties, Economic Development, City Planning Commission, Finance, Law; Recommended by Committees on Public Parks, Property, and Recreation, Community and Economic Development, City Planning, Finance; when, amended as follows:

1. In the title, fifth line, strike "OfficeMax, Inc." and insert "the Cleveland Cuyahoga County Port Authority".

2. In the third Whereas clause, first line, strike "OfficeMax, Inc." and insert "the Cleveland Cuyahoga County Port Authority" ("Port Authority").

3. In the third Whereas clause, second line, after "building" insert "for OfficeMax, Inc. ("OfficeMax")".

4. In the fourth Whereas clause, first line, after "Village" strike the comma and insert "to".

5. In the fifth Whereas clause, first line, strike "OfficeMax, Inc." and insert "Port Authority".

6. In Section 1, second line, strike "1834" and insert "183".

7. In Section 1, fourth and fifth lines, strike "OfficeMax, Inc." and insert "Port Authority".

8. In Section 1, fifth line, after "building" insert "to be leased to OfficeMax".

9. In Section 1, last line, strike "(Insert Legal Description)" and insert:

"Light Industrial Parcel No. 7 (OfficeMax Site)

Situated in the Village of Highland Hills, the County of Cuyahoga and the State of Ohio and known as being all of Light Industrial Parcel No. 7, to be recorded in the re-subdivision of the Cleveland Enterprise Park, Phase 1, Platbook Volume , Page , of the Cuyahoga County Record of Plats and also being a part of Original Lot No's. 66, 67, 76 and 77 in the Original Warrensville Township and more fully described as follows:

Beginning at an iron pin monument found S 66 degrees 52' 38" W, 39.22 feet from the intersection of the centerline of Harvard Avenue (width varies) and the centerline of Re-located Millcreek Boulevard (85 feet wide);

Thence along the centerline of said Harvard Ave., S 66 degrees 50' 47" W, 33.28 feet to a point; Thence S 23 degrees 09' 13" E, 50.00 feet to a point on the right-of-way line of said Harvard Ave. and the true place of beginning;

Thence following a curve to the right, having a central angle of 90 degrees 00' 00", a radius of 30.00 feet, a chord distance of 42.43 feet and a chord bearing of S 68 degrees 09' 13" E, the arc distance of 47.12 feet to a point and the westerly right-of-way line of said relocated Millcreek Blvd.;

Thence continuing along the westerly right-of-way line of said relocated Millcreek Blvd., S 23 degrees 09' 13" E, 422.68 feet to a point of curve;

Thence following a curve to the left, having a central angle of 38 degrees 52' 29", a radius of 542.50 feet, a chord distance of 361.06 feet and a chord bearing of S 42 degrees 35' 27" E, the arc distance of 368.08 feet to a point;

Thence S 17 degrees 47' 38" W, 53.56 feet to a point;

Thence S 17 degrees 47' 32" W, 546.49 feet to a point;

Thence S 81 degrees 11' 19" W, 193.32 feet to a point;

Thence S 56 degrees 56' 04" W, 781.57 feet to a point; and the easterly right-of-way line of Northfield Avenue (100 feet wide);

Thence continuing along said right-of-way following a curve to the right, having a central angle of 28 degrees 05' 34", a radius of 2,814.79 feet, a chord distance of 1,366.34 feet and a chord bearing of N 14 degrees 21' 12" W, the arc distance of 1,380.12 feet to a point;

Thence continuing along said right-of-way line, N 00 degrees 18' 25" W, 37.63 feet to a point of curve;

Thence following a curve to the right, having a central angle of 81 degrees 09' 41", a radius of 30.00 feet, a chord distance of 39.03 feet and a chord bearing of N 40 degrees 16' 25" E, the arc distance of 42.50 feet to a point and the southerly right-of-way line of said Harvard Ave.,

Thence easterly continuing along said Harvard Ave. right-of-way line following a curve to the left, having a central angle of 10 degrees 15' 29", a radius of 1,949.86 feet, a chord distance of 348.63 feet and a chord bearing of N 75 degrees 43' 31" E, the arc distance of 349.10 feet to a point of spiral curve;

Thence continuing along said Harvard Ave. right-of-way line following a spiral curve to the left, having a central angle of 03 degrees 45' 00", a chord distance of 252.57 feet and a chord bearing of N 68 degrees 06' 10" E, the length of 252.57 feet to a point;

Thence N 66 degrees 50' 47" E, 94.78 feet to a point;

Thence N 78 degrees 09' 23" E, 50.99 feet to a point;

Thence N 66 degrees 50' 47" E, 200.00 feet to a point and the place of beginning and containing 34.000 acres, more or less, as surveyed by Ralph C. Tyler, Registered Surveyor No. 4236, State of Ohio, in May 1995, but subject to all legal roads, highways and easements of record.

The basis of bearing for this description is an assumed meridian and used to denote angular measurements only."

10. In Section 2, fourth line, after "\$2,293,722.00)," insert "which this Council determines to be the fair market value of the Sale Parcel".

11. In Section 3, first line, strike "OfficeMax, Inc." and insert "Port Authority".

12. In Section 5, second line, strike "OfficeMax, Inc." and insert "Port Authority".

13. In Section 5, third line, after "building" insert "to be leased to OfficeMax"; and at the end of Section 5 add the following: "A copy of the executed lease agreement between OfficeMax and the Port Authority shall be delivered to the Clerk of Council and placed in File No. 478-98-A. The Project Agreement shall also provide that if at the end of the Lease Agreement between OfficeMax and the Port Authority, OfficeMax does not exercise its option to purchase the property and the Port Authority decides to sell the property to another party, the City shall have the right of first refusal to purchase the property. The City's right of first refusal shall expire 180 days after notice of the opportunity by the Port Authority."

14. Strike Section 7 in its entirety and insert in lieu thereof the following:

"Section 7. The Project Agreement shall require OfficeMax, as the future tenant, to use best efforts, consisting of their cooperation with programs offered by the City's Human Resources Division, subject to economic restraints of the project and the right of OfficeMax to make final employment decisions, to achieve objectives related to construction and employment for City economic development initiatives, to include awarding 30% of construction contracts and supplier purchase orders to minority-owned enterprises; awarding 10% of construction contracts and supplier purchase orders to female-owned enterprises; hiring minorities for 16.1% of construction jobs; hiring women for 6.9% of construction jobs; hiring minorities for 33% of the jobs created by the project; hiring Cleveland residents for 50% of construction jobs; and hiring Cleveland residents for 50% of all jobs created by the project. In addition, OfficeMax shall maintain neutrality with respect to any organizing campaign or any decision by the employees whether to join or be represented by any labor organization. However, neutrality shall not be construed to interfere with or restrict OfficeMax from exercising its rights to fairly represent its position in communicating with its employees."

15. Insert a new Section 8 to read as follows:

"Section 8. That the Project Agreement shall provide that site plans for the development showing buildings, roadway alignments and the location of the GCRTA Blue Line Rapid Transit shall be submitted to the City Planning Commission for review and approval."

16. Renumber existing Sections 8, 9, 10, 11, 12, 13, 14, 15, and 16, respectively, to new "Section 9", "Section 10", "Section 11", "Section 12", "Section 13", "Section 14", "Section 15", "Section 16", and "Section 17".

17. In existing Section 9, third line, strike "OfficeMax, Inc." and insert "Port Authority".

18. In existing Section 15, strike the last line of the section in its entirety and insert in lieu thereof the following:

"Fund No. 10 SF 501".

Amendments agreed to.

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

Those voting yea were Councilmen: Britt, Cimperman, Cintron, Coats, Dolan, Gordon, Jackson, Johnson, Jones, Lewis, Moran, Patmon, Robinson, Rybka, Sweeney, Willis, Zone.

Those voting nay: Councilman Polensek.

Absent: Councilmen Melena, Westbrook, and White.

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

Ord. No. 682-98.

By Councilmen Coats and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of traffic control signal lamps, for the Division of Traffic Engineering and Parking, Department of Public Safety.

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

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

Ord. No. 683-98.

By Councilmen Coats and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of traffic signal and sign material and equipment, for the Division of Traffic Engineering and Parking, Department of Public Safety.

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

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

Ord. No. 699-98.

By Councilmen Melena, Westbrook, Zone, Sweeney, Jackson and Johnson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to apply for and accept a grant from the U.S. Environmental Protection Agency for the EPA Brownfields Economic Development Initiative Brownfield Assessment Demonstration Pilot Program, and to enter into contract with WIRE-Net to implement the program.

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

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

Ord. No. 758-98.

By Councilmen Coats and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of labor and materials necessary to paint center and lane lines on City streets, for the Division of Traffic Engineering and Parking, Department of Public Safety, for a period not to exceed two years.

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

1. In the title, strike lines 8 and 9 in their entirety, and insert in lieu thereof "of Public Safety".

2. In Section 1, line 4 and in line 13, strike "two (2) years" and insert in lieu thereof in both places "one year".

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

In compliance with Section 33 of

the Charter, a copy of the legislation was furnished to each member of Council before final passage.

Ord. No. 759-98.

By Councilmen Coats and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of reflective sheeting and sign posts, for the Division of Traffic Engineering and Parking, Department of Public Safety, for a period not to exceed two years.

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

1. In the title, strike lines 7 and 8 in their entirety, and insert in lieu thereof "of Public Safety".

2. In Section 1, line 4 and in lines 12 and 13, strike "two (2) years" and insert in lieu thereof in both places "one year".

Amendments agreed to.

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

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

Ord. No. 760-98.

By Councilmen Coats and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of traffic paint, thermoplastic material and reflective glass beads, for the Division of Traffic Engineering and Parking, Department of Public Safety, for a period not to exceed two years.

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

1. In the title, strike lines 7 and 8 in their entirety, and insert in lieu thereof "Parking, Department of Public Safety".

2. In Section 1, line 4 and in line 13, strike "two (2) years" and insert in lieu thereof in both places "one year".

Amendments agreed to.

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

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

Ord. No. 819-98.

By Councilmen Gordon and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by contract of not to exceed two portable lead detectors, for the Division of Environment, Department of Public Health.

Approved by Directors of Public Health, Finance, Law; Recommended by Committees on Public Health, Finance.

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

Ord. No. 857-98.

By Councilman Johnson (by departmental request).

An emergency ordinance to amend Sections 16 and 41 of Ordinance No. 436-97, passed April 14, 1997, as may be amended by Ordinance No. 1474-97, passed October 13, 1997, relating to compensation for various classifications.

Approved by Directors of Personnel and Human Resources, Finance, Law; Recommended by Committees on Public Health, Finance.

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

SECOND READING EMERGENCY RESOLUTIONS ADOPTED

Res. No. 1661-97.

By Councilman Cimperman. An emergency resolution declaring the intention to vacate that part of Webster Avenue S.E.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Relieved of Committees on Public Service, City Planning; Recommended by Committee on Finance.

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

Res. No. 563-98.

By Councilman Cimperman (by request).

An emergency resolution declaring the intention to vacate portions of East 12th Street and Webster Avenue S.E.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Relieved of Committees on Public Service, City Planning; Recommended by Committee on Finance, when, amended as follows:

1. In Section 1, line 2, strike "a portion of".

Amendment agreed to.

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

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

Res. No. 625-98.

By Councilman Cintron (by request).

An emergency resolution declaring the intention to vacate portions of West 30th Street and Keene Court S.W.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Relieved of Committees on Public Service, City Planning; Recommended by Committee on Finance.

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

MOTION

By Councilman Coats, seconded by Councilman Polensek and unanimously carried that the absence of Councilman Timothy J. Melena, Council President Jay Westbrook, and Councilman Robert J. White, be and is hereby authorized.

The Council adjourned at 8:25 p.m. to meet on Monday, June 8, 1998 at 7:00 p.m.



Clerk of Council

THE CALENDAR

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

NONE

BOARD OF CONTROL

May 27, 1998

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, May 27, 1998, at 11:00 a.m., with Mayor White presiding.

Present: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Absent: Director Staib.

Others: William A. Moon, Commissioner, Purchases and Supplies, Laura A. Williams, Director, Office of Equal Opportunity.

On motion, the following resolutions were adopted.

Resolution No. 366-98.

By Director Carmody.

Resolved by the Board of Control of the City of Cleveland, that pursuant to Section 101 of the Charter, Section 181.19 of the Codified Ordinances of Cleveland, Ohio 1976, and Resolution No. 921-52, adopted by the Board of Control on November 26, 1952, the report of the Commissioner of Purchases and Supplies for the sale of scrap, personal property, and by-products during the month of April, 1998 in the amount of \$7,049.38, hereto attached and made a part hereof, is hereby received, approved and ordered filed.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 367-98.

By Director Carmody.

Resolved by the Board of Control of the City of Cleveland, that all bids received on April 9, 1998 for Computer Related Hardware Equipment (all items) for the Division of various divisions of City Government, Department of Finance, pursuant to the authority of Ordinance No. 1471-97, passed by the Council of the City of Cleveland on October 13, 1997 be and the same are hereby rejected.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 368-98.

By Director Carmody.

Resolved, by the Board of Control of the City of Cleveland, that the bid of The Wackenhut Corporation for an estimated quantity of Unarmed, Uniformed Security Guard Services (all items) for the Division of various divisions of City Government, Department of Finance, for the period of two (2) years beginning with the date of execution of a contract received on May 13, 1998, pursuant to the authority of Ordinance No. 507-98, passed April 27, 1998, which on the basis of the estimated quantity would amount to Six Hundred Fifty-Seven Thousand Five Hundred and 00/100 Dollars

(\$657,500.00), (Net 30 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Finance is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 12524
16618

which shall be certified against such contract in the sum of Thirty-Three Thousand and 00/100 Dollars (\$33,000.00).

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 369-98.

By Director Carmody.

Resolved by the Board of Control of the City of Cleveland, that all bids received on April 22, 1998 for Lease or Rental of One (1) High Performance Production Printer for the Division of Printing and Reproduction, Department of Finance, pursuant to the authority of Ordinance No. 423-98, passed by the Council of the City of Cleveland on March 23, 1998 be and the same are hereby rejected.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 370-98.

By Director Konicek.

Resolved by the Board of Control of the City of Cleveland that the bid of Omnico Truck Centers, Inc. for the following: One (1) Boom Truck for the Division of Water Pollution Control, Department of Public Utilities, received on the 13th day of March 1998, pursuant to the authority of Ordinance No. 2557-89, passed November 13, 1989, which on the basis of the order quantities would amount to \$177,268.00 is hereby approved as the lowest and best bid, and the Director of Public Utilities is hereby requested to enter into contract for such items.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 371-98.

By Director Konicek.

Be it resolved, by the Board of Control of the City of Cleveland that all bids received on July 9, 1997 for System Expansion C-15 Transmis-

sion Line To Pearl Road, all items, for the Division of Cleveland Public Power, Department of Public Utilities, pursuant to the authority of Ordinance No. 1071-93, passed by the Council of the City of Cleveland on June 7, 1993, be and the same are hereby rejected.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 372-98.

By Director Konicek.

Be it resolved by the Board of Control of the City of Cleveland that the conditional bid of East Jordan Iron Works, Inc. for an estimated quantity of manhole covers and parts (items 1-13) for the Division of Water, Department of Public Utilities, for a period of two (2) years beginning with the date of execution of a contract, received on the 19th day of March, 1998, pursuant to the authority of Section 129.25 of the Codified Ordinances of Cleveland, Ohio, 1976, which on the basis of the estimated quantity would amount to Forty Eight Thousand Eight Hundred Thirty Dollars (\$48,830.00), (Net 30 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Utilities is hereby requested to enter into requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 02089

which shall be certified against such contract in the sum of Ten Thousand Dollars (\$10,000.00).

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 373-98.

By Acting Director Sheffield-McClain.

Resolved by the Board of Control of the City of Cleveland, that all bids received on March 4, 1998 for software for Computerized Maintenance Management System for the Division of Cleveland Hopkins International Airport, Department of Port Control, pursuant to the authority of Ordinance No. 1275-97, passed by the Council of the City of Cleveland on September 22, 1997 be and the same are hereby rejected.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 374-98.

By Director Guzman.

Resolved, by the Board of Control of the City of Cleveland that the bid of Lift-All, Division of Hydra-Tech, Inc. for an estimated quantity of one (1) cab and chassis with body/bucket and additional equipment (item #2) for various Divisions of City Government, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract received on April 17, 1998, pursuant to the authority of Ordinance No. 1113-97, passed July 16, 1997, which on the basis of the estimated quantity would amount to approximately One Hundred Seventeen Thousand Nine Hundred Eighty Five and no/100 Dollars (\$117,985.00), (Net), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 19647

which shall be certified against such contract in the sum of One Hundred Seventeen Thousand Nine Hundred Eighty Five and no/100 Dollars (\$117,985.00).

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 375-98.

By Director Guzman.

Resolved, by the Board of Control of the City of Cleveland that the bid of Valley Ford Truck Sales, Inc. for an estimated quantity of cab and chassis with body and crew cab and chassis with dump body (15,000 GVW) (Items 1 and 2) for various Divisions of City Government, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract received on April 17, 1998, pursuant to the authority of Ordinance No. 1113-98, passed July 16, 1997, which on the basis of the estimated quantity would amount to approximately One Hundred Fifty Seven Thousand One Hundred Eleven and no/100 Dollars (\$157,111.00), (Net 30 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No.	19645	\$31,435
	19648	\$83,784
	19649	\$41,892

which shall be certified against such contract in the sum of One Hundred Fifty Seven Thousand One

Hundred Eleven and no/100 Dollars (\$157,111.00).

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

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractor Valley Ford Truck Sales, Inc., for the purchase of cab and chassis with body and crew cab and chassis with dump body (15,000 GVW) (items 1 and 2), is hereby approved:

Logical Services
MBE — \$850.00/unit

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 376-98.

By Director Guzman.

Resolved, by the Board of Control of the City of Cleveland that the bid of Altec Industries, Inc. for an estimated quantity of two (2) cab and chassis with chip dump body/bucket and additional equipment (Item #1) for various Divisions of City Government, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract received on April 17, 1998, pursuant to the authority of Ordinance No. 1113-97, passed July 16, 1997, which on the basis of the estimated quantity would amount to approximately Two Hundred Six Thousand Three Hundred Seventy Six and no/100 Dollars (\$206,376.00), (Net 30 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 19646

which shall be certified against such contract in the sum of Two Hundred Six Thousand Three Hundred Seventy Six and no/100 Dollars (\$206,376.00).

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 377-98.

By Director Hamilton.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976,

the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 002-15-018 under said Land Reutilization Program; and

Whereas, Ordinance No. 476-98 passed May 11, 1998 authorized the sale of said parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Cleveland Housing Network Incorporated has proposed to the City to purchase and develop said parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 476-98 passed May 11, 1998 by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Cleveland Housing Network Incorporated for the sale and development of Permanent Parcel No. 002-15-018, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 378-98.

By Director Hamilton.

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

Whereas, City has acquired Permanent Parcel Nos. 118-28-081, 118-28-017, 118-28-018, 118-28-019 and 118-28-020 under said Land Reutilization Program; and

Whereas, Ordinance No. 323-98 passed May 11, 1998 authorized the sale of said parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, St. Paul AME Zion Church has proposed to the City to purchase and develop said parcels; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 323-98 passed May 11, 1998 by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with St. Paul AME Zion Church for the sale and development of Permanent Parcel Nos. 118-28-081, 118-28-017, 118-28-018, 118-28-019 and 118-28-020, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 379-98.

By Director Hamilton.

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

Whereas, City has acquired Permanent Parcel Nos. 118-28-021 and 118-28-022 under said Land Reutilization Program; and

Whereas, Ordinance No. 867-98 passed May 11, 1998 authorized the sale of said parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, St. Paul AME Zion Church has proposed to the City to purchase and develop said parcels; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 867-98 passed May 11, 1998 by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with St. Paul AME Zion Church for the sale and development of Permanent Parcel Nos. 118-28-021 and 118-28-022, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 380-98.

By Director Hamilton.

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

Whereas, City has acquired Permanent Parcel No. 123-19-117 under said Land Reutilization Program; and

Whereas, Ordinance No. 2153-97 passed April 6, 1998 authorized the sale of said parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Lucille Liuzzo, Ronald Liuzzo, Richard Liuzzo and Dennis Liuzzo have proposed to the City to purchase and develop said parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 2153-97 passed April 4, 1998 by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Lucille Liuzzo, Ronald Liuzzo, Richard Liuzzo and Dennis Liuzzo for the sale and development of Permanent Parcel No. 123-19-117, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcel shall be \$400.00, which amount is hereby determined to be not less than the fair market value of said parcel for uses in accordance with the Land Reutilization Program.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 381-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 008-04-073 located at 2989 West 12th Street in Ward 13; and

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

Whereas, Sharon Johnson, abutting/adjacent landowner, has proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

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

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Sharon Johnson for the sale and development of Permanent Parcel No. 008-04-073 located at 2989 West 12th Street, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

lization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 382-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 123-23-077 located at 5220 McBride Avenue in Ward 13; and

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

Whereas, Rosalind McAllister, abutting/adjacent landowner, has proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

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

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Rosalind McAllister for the sale and development of Permanent Parcel No. 123-23-077 located at 5220 McBride Avenue, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 383-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 104-14-108 located at 1258 East 58th Street in Ward 13; and

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

Whereas, Edward J. Buehner, abutting/adjacent landowner, has proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

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

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Edward J. Buehner for the sale and development of Permanent Parcel No. 104-14-108 located at 1258 East 58th Street, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 384-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 131-23-077 located at 5017 Hamm Avenue in Ward 13; and

Whereas, Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976 authorizes the Commissioner of Purchases and Supplies, when directed by the Director of Community Development and when certain specified conditions have

been met, to sell Land Reutilization Program parcels to adjacent or abutting landowners; and

Whereas, Sharon and Ronald Dempsey, abutting/adjacent landowners, have proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

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

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

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

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Sharon and Ronald Dempsey for the sale and development of Permanent Parcel No. 131-23-077 located at 5017 Hamm Avenue, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 385-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 108-05-090 located at 576 East 99th Street in Ward 8; and

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

Whereas, Oscar Gray Davis and Mary Syvenia Davis, abutting/adjacent landowners, have proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

1. The member of Council from Ward 8 has consented to the proposed sale;

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

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

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Oscar Gray Davis and Mary Syvenia Davis for the sale and development of Permanent Parcel No. 108-05-090 located at 576 East 99th Street, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 386-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel Nos. 004-19-035 and 004-19-036 located at 2495 and 2499 West 7th Street in Ward 13; and

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

Whereas, Greater Cleveland Habitat for Humanity, abutting/adjacent landowner, has proposed to the City to purchase and develop said parcels; and

Whereas, the following conditions exist:

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

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

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Greater Cleveland Habitat for Humanity for the sale and development of Permanent Parcel Nos. 004-19-035 and 004-19-036 located at 2495 and 2499 West 7th Street, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 387-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 002-32-074 located at 5500 Courtland Court in Ward 17; and

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

Whereas, Michael McBride, abutting/adjacent landowner, has proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

1. The member of Council from Ward 17 has consented to the proposed sale;

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Michael McBride for the sale and development of Permanent Parcel No. 002-32-074 located at 5500 Courtland Court, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcel shall be \$330.00, which amount is hereby determined to be not less than the Fair Market value of said parcel for uses in accordance with said Program.

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 388-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 115-30-126 located at 15340 Yorick Avenue, N.E. in Ward 11; and

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

Whereas, Luther W. Ratliff and Donna M. Ratliff, abutting/adjacent

landowners, have proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

1. The member of Council from Ward 17 has consented to the proposed sale;

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Kelly A. Cofield for the sale and development of Permanent Parcel No. 115-30-126 located at 15340 Yorick Avenue, N.E., in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

Resolution No. 389-98.

By Director Hamilton.

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

Whereas, under said Program, the City has acquired Permanent Parcel No. 016-19-027 located at 3422 West 50th Street in Ward 17; and

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

Whereas, Luther W. Ratliff and Donna M. Ratliff, abutting/adjacent

landowners, have proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

1. The member of Council from Ward 17 has consented to the proposed sale;

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

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

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinance of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Luther W. Ratliff and Donna M. Ratliff for the sale and development of Permanent Parcel No. 016-19-027 located at 3422 West 50th Street, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor White, Directors Summers, Carmody, Konicek, Acting Director Sheffield-McClain, Director Guzman, Acting Director Terry, Directors Jackson, Hamilton, Nolan, Warren and Axelrod.

Nays: None.

Absent: None.

JEFFREY B. MARKS,
Secretary

CIVIL SERVICE NOTICES

General Information

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

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

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

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

FREDDIE J. FENDERSON,
President

**SCHEDULE OF THE BOARD
OF ZONING APPEALS**

MONDAY, JUNE 15, 1998

9:30 A.M.

Calendar No. 98-86: 3230-34 Euclid Avenue

Emile Daher and Hayat Daher, owners, and Downtown Office Inc. c/o Natalie Modic and Robert Modic, tenant, appeals under Sections 329.01(e) and 329.02(d) from the violation notice dated April 17, 1998 from the Division of Building and Housing relative to the use as an Adult Cabaret of the premises located in a General Retail District at 3230-34 Euclid Avenue and not in conformance with the provisions of Section 347.07 of the Codified Ordinances.

Calendar No. 98-95: 6605 Clark Avenue, S.W.

1799-1873 Beall Avenue Company Inc. c/o Stuart Graines, appeals under Sections 329.10(e) and 329.02(d) of the Codified Ordinances from the Violation Notice dated April 13, 1998 from the Division of Building and Housing relative to the premises located in a Semi-Industry District and known as 6605 Clark Avenue for violation items numbered 14 through 18 relative to Sections 327.02, 349.07 and 349.08 of the Codified Ordinances

Calendar No. 98-96: 5163 Broadway, a.k.a. 5303 McBride Ave., S.E.

St. Michael's Hospital, owner, and Community Assessment Foundation, tenant, c/o Dan Cratcha and Roxanne Wallace, appeals to change use of the former nursing school/dormitory to a 45 bed correctional halfway house the 90' x 180' 5-story masonry "L" shaped school and dormitory building on the acreage parcel located in a General Retail District and bounded by Broadway, Fowler Ave., Hector Ave. and McBride Ave. at 5303 McBride Ave. and also occupied by several buildings of the St. Michael Hospital Campus, known as 5163 Broadway; said change of use being subject to the Board of Zoning Appeals approval for a Certificate of Occupancy as required by Section 347.15(b)(c) and said use to be less than 500' to residential districts and church uses contrary to the provisions of Section 347.15(d)(1) and not in conformance with the provisions of Section 347.15(d)(2) which require that no more than two correctional halfway house facilities shall be located in any one Police District and this proposed use would increase that number to four and said facility providing 14 off-street parking spaces instead of the 39 spaces required by Section 347.15(g) of the Codified Ordinances.

Calendar No. 98-97: 8618 Carnegie Ave., S.E.

Cleveland Clinic Foundation, owner, c/o Brian Smith and Vienna Distributing Co. c/o Regan Schaleck, tenant, to erect a 61' x 85' one-story masonry wholesale food dealer building with a 37' x 21' one-story truck dock and a 34 car accessory off-street parking lot all on a 141' x 208' irregular shaped parcel located in a General Retail Business District and to be known as 8618 Carnegie Ave.; said use as a wholesale food dealer being contrary to the retail limitations of Section 343.11 and not in conformance with

the landscaping provisions of Section 352.10 and the east driveway not being 15' from the property line as required by Section 343.18(c) of the Codified Ordinances.

Calendar No. 98-99: 7027 St. Clair Ave., N.E.

Anna Chambers, owner, and Rick's Trading Post Inc. c/o Kevin Chambers, tenant, to change use to a used car sales lot and office the 36' x 39' one-story building all on the 42' x 181' irregular shaped lot located in a Local Retail District at 7027 St. Clair Ave.; said use being contrary to the local retail limitations regulated by Section 343.01 and said lot not being 60' in width as required for used car sales by Section 347.11 of the Codified Ordinances.

**REHEARING GRANTED
ON DECEMBER 1, 1997**

10:30 A.M.

Calendar No. 97-232: 4164 East 97th Street

Christopher Brown, owner, appeals to change use to a group home (adult care facility) for a maximum of six adults the 24' x 40' two-story frame one-family dwelling house on a 40' x 140' lot located in a Two-Family District at 4164 East 97th Street; said use being contrary to the residence limitations of Section 337.03 and the north side yard being 3' instead of 8' in width as required by Section 357.09 and not in compliance with the the off-street parking requirements of Sections 349.03 and 349.04 and the landscaping requirements of Section 352.11 of the Codified Ordinances.

EUGENE CRANFORD, JR.,
Secretary

**REPORT OF THE BOARD
OF ZONING APPEALS**

MONDAY, JUNE 1, 1998

At the Meeting of the Board of Zoning Appeals on Tuesday, May 26, 1998, the following appeals were heard by the Board, and, on Monday, June 1, 1998 were decided by the Board.

The following appeals were **Granted**:

Calendar No. 98-71: 4742 West 130th Street

Mostafa and Mahboubah Rahmani owners, and Sonny's Auto Sales Inc. c/o Louis Kubat, tenant, appealed to change an existing 20' x 30' one-story masonry building located in a General Retail Business District. (Granted conditionally).

Calendar No. 98-94: 1300 West 9th Street

Otis Associates Ltd. c/o Bob Raines, owner, to change use to 249 dwelling units on the upper levels, retail and or restaurants at grade levels and approximately a 227 car indoor parking on the lower levels.

The following appeal was **Postponed** to June 15, 1998.

Calendar No. 98-93: 3525 Scranton Road, S.W. and 1901 Eglindale Avenue, S.W.

EUGENE CRANFORD, JR.,
Secretary

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

Re: Report of the Meeting of
May 27, 1998

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 the subject meeting is given for publication in The City Record:

* * *

Docket A-395-97.

RE: Continuance of Appeal of Paul P. Arnold, Owner of the Property located on the premises known as 2311-15 East 55th Street from a 72 HOUR CONDEMNATION NOTICE — PUBLIC NUISANCE of the Commissioner of the Division of Building and Housing dated November 25, 1997, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant ninety days (90 das.) in which to abate the violations; the property is REMANDED at this time to the Division of Building and Housing for supervision and further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Sullivan.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket L-5-98.

RE: Appeal of Ronald Hebebrand, from a LETTER OF DENIAL FOR RENEWAL OF ELECTRICAL CONTRACTOR LICENSE of the Commissioner of the Division of Assessments & Licenses dated April 5, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to permit Mr. Hebebrand to renew his ELECTRICAL CONTRACTOR LICENSE without retaking the test, but with payment of the late filing fees. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Williams.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-29-98.

RE: Appeal of John W. Hickey, Owner of the Property located on the premises known as 3792-94 West 25th Street (aka 2500-2600 Garden Avenue) from NOTICES OF VIOLATION of the Commissioner of the Division of Building and Housing dated January 12, 16, and 23, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

Docket A-29-98 has been POSTPONED; to be rescheduled for a later date.

* * *

Docket A-49-98.

RE: Appeal of Merlene Atwater Allen, Owner of the Property located on the premises known as 11223-25

St. Clair Avenue from a CONDEMNATION ORDER of the Commissioner of the Division of Building and Housing dated February 23, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to modify the Commissioner's CONDEMNATION ORDER and LETTER OF INTENTION TO DEMOLISH by granting the Appellant one month (1 mo.) in which to obtain permits and abate the violations. Upon passage of this motion, this matter shall be REMANDED to the Commissioner of the Division of Building and Housing at the end of that time for supervision and further action. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Williams.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-50-98.

RE: Appeal of Charles C. Pearson, Owner of the Property located on the premises known as 6425 Grand Avenue from a NOTICE OF VIOLATION of the Commissioner of the Division of Building and Housing dated February 26, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to DENY the Appellant's appeal request on the basis of the Codified Ordinances of the City of Cleveland, and to REMAND the property at 6425 Grand Avenue at this time to the Division of Building and Housing for further action. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-51-98.

RE: Appeal of Midland Mortgage Co., Mortgagee of the Residential Property located on the premises known as 3495 West 62nd Street from a CONDEMNATION ORDER/MS & GARAGE of the Commissioner of the Division of Building and Housing dated January 22, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to modify the Commissioner's CONDEMNATION ORDER/MS & GARAGE and LETTER OF INTENTION TO DEMOLISH by granting the Appellant one month (1 mo.) in which to obtain permits and abate the violations, the property is to be maintained boarded and secured and the grounds debris free during that period of time. Upon passage of this motion, this matter shall be REMANDED to the Commissioner of the Division of Building and Housing at the end of that time for supervision and further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Williams.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

Docket A-52-98.

RE: Appeal of Chase Mortgage Services, Mortgagee of the Residential Property located on the premises known as 2097 West 89th Street from a NUISANCE ABATEMENT of the Commissioner of the Division of Building and Housing dated February 23, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant two months (2 mos.) in which to obtain permits and abate the violations, the property must remain boarded and secured and the grounds debris free at this time; and to REMAND the property at 2097 West 89th Street to the Division of Building and Housing for further action. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Williams.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-55-98.

RE: Appeal of Josephine Walker, Owner of the Residential Property located on the premises known as 1917 East 75th Street from a LETTER of the Commissioner of the Division of Building and Housing dated March 20, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to REMAND the property at 1917 East 75th Street to the Division of Building and Housing for further action as required. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-59-98.

RE: Appeal of Herbert Kay, Owner of the Property located on the premises known as 7300 Clark Avenue from a NOTICE OF VIOLATION — FIRE CODE of the Commissioner of the Division of Fire dated March 10, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action this date; the Docket will be rescheduled for June 10, 1998.

* * *

Docket A-64-98.

RE: Appeal of John McPherson, Owner of the Property located on the premises known as 10919 Franklin Boulevard from a NOTICE OF VIOLATION — FIRE CODE of the Chief of the Division of Fire dated March 27, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action this date; the Docket will be rescheduled for June 24, 1998.

Docket A-68-98.

RE: Appeal of Judy Hlas, Owner of the Property located on the premises known as 3303 Superior Avenue from a NOTICE OF VIOLATION/RESIDENTIAL MAINTENANCE of the Commissioner of the Division of Building and Housing dated March 18, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action this date; the Docket will be rescheduled for June 24, 1998.

* * *

Docket A-76-98.

RE: Appeal of Cleveland Container Recycling Corp., Owner of the Property located on the premises known as 9520 Richmond Avenue from a NOTICE OF VIOLATION — FIRE CODE of the Chief of the Division of Fire dated March 24, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action this date; the Docket will be rescheduled for June 24, 1998.

* * *

Docket A-85-98.

RE: Appeal of Keith R. Kunath, Owner of the Residential Property and Proposed Swimming Pool located on the premises known as 12813 Mulligan Avenue from a NOTICE OF NONCONFORMANCE of the Commissioner of the Division of Building and Housing dated May 11, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance to the ten foot (10 ft.) requirement and permit the pool to be installed as indicated on the drawings, approximately five feet (5 ft.) from the adjacent and rear property lines; the Appellant is to return with a letter indicating acceptance of the pool from the rear property owner, and to waive the late filing fees. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Sullivan.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-88-98.

RE: Appeal of Cleveland Housing Network, Owner of the Residential Property located on the premises known as 7618 New York Avenue from a NOTICE OF NONCONFORMANCE of the Commissioner of the Division of Building and Housing dated May 13, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to DENY the Appellant's appeal request and require that the windows be properly sized in accordance with the Codified Ordinances of the City of Cleveland. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Sullivan.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

Docket A-89-98.

RE: Appeal of Sue E. Zakaib, Owner of the Property located on the premises known as 11108 Primrose Avenue from a NOTICE OF VIOLATION — ELECTRICAL of the Commissioner of the Division of Building and Housing dated May 8, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action this date; the Docket will be rescheduled for June 10, 1998.

* * *

Docket A-90-98.

RE: Appeal of Francis C. Gardner, Owner of the Residential Property and Proposed Swimming Pool located on the premises known as 7604 Halle Avenue from a NOTICE OF NONCONFORMANCE of the Commissioner of the Division of Building and Housing dated May 15, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance to the ten foot (10 ft.) requirement and permit the pool to be installed as indicated on the drawings, approximately seven feet (7 ft.) and nine feet (9 ft.) from the adjacent properties, noting the letters of concurrence from the adjacent neighbors. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-91-98.

RE: Appeal of Denise Metzel Chipgus, Owner of the Residential Property and Proposed Swimming Pool located on the premises known as 3444 West 98th Street from a NOTICE OF NONCONFORMANCE of the Commissioner of the Division of Building and Housing dated May 15, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance to the ten foot (10 ft.) requirement and permit the pool to be installed as indicated on the drawings, approximately six feet (6 ft.) from the adjacent neighbor, noting the letter of concurrence of the neighbor. Motion so in order. Motioned by Sullivan and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-92-98.

RE: Appeal of Kenneth Wayne, Owner of the Residential Property and Proposed Swimming Pool located on the premises known as 5205 Behrwald Avenue from a NOTICE OF NONCONFORMANCE of the Commissioner of the Division of Building and Housing dated May 15, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance to the ten foot (10 ft.) require-

ment and permit the pool to be installed as indicated on the drawings, approximately three feet (3 ft.) from the adjacent property line, with the provision that a letter be received by the Board indicating that the adjacent property owner does not object to the location of the pool. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-93-98.

RE: Appeal of Nolasco Housing Corp., Owner of the Property located on the premises known as 6903 Father Caruso Drive from a NOTICE OF VIOLATION — ELECTRICAL of the Commissioner of the Division of Building and Housing dated May 5, 1998, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to find that the violations were accurate, and that the appeal was well-founded; that the Codified Ordinances do not visualize two thousand square feet in a four-story as a reason for applying conduit; a motion is in order to approve the non-metallic sheet cable installation as requested. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Williams.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

EXTENSION OF TIME:**Docket A-332-97.**

Muhammad R. Abdullah — 2615 East 61st Street: In view of the inactivity on the abatement of the violations, a motion is in order at this time to DENY the Appellant's request for "Extension of Time" and to REMAND the property at 2615 East 61st Street to the Division of Building and Housing for further action. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

Docket A-7-98.

First Bank National Assoc. — 997 East 74th Street/Front: A motion is in order at this time to grant the Appellant a two month (2 mos.) "Extension of Time" in which to abate the violations, and to REMAND the property at 997 East 74th Street/Front to the Division of Building and Housing for supervision and further action, with the understanding that continuances may be granted by the Division of Building and Housing based upon the appearance of the property. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Sullivan.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Absent: Mr. Bowes.

* * *

APPROVAL OF RESOLUTIONS:

Separate motions were entered by Mr. Saunders and seconded by Mr. Williams for Approval and Adoption

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

A-5-98—Margaret L. White.
A-45-98—Golden Bullion Enterprises Inc.
A-53-98—DeVonn Burwell.
A-58-98—Green Tree Financial Servicing Corp.
A-60-98—Lomack J. Gray.
A-61-98—Shirley M. Wise.
A-62-98—Cheryl J. Hudson.
A-63-98—Cleveland Clinic Foundation.
A-67-98—Albert Forney.
A-75-98—Bob Whorley.
A-81-98—City of Cleveland (Public Utilities Building).
A-82-98—Edward Lymer.

Yeas: Messrs. Denk, Williams, Saunders. Nays: None. Not Voting: Mr. Sullivan. Absent: Mr. Bowes.

* * *

APPROVAL OF MINUTES:

Separate motions were entered by Mr. Williams and seconded by Mr. Saunders for Approval of the Minutes as presented by the Secretary respectively, subject to the Codified Ordinances of the City of Cleveland:

May 13, 1998

Yeas: Messrs. Denk, Williams, Saunders. Nays: None. Not Voting: Mr. Sullivan. Absent: Mr. Bowes.

* * *

JOSEPH F. DENK,
CHAIRMAN

PUBLIC NOTICE

The following are in violation of C.O. 623.14:

Richard Alt, last known address, 1742 West 29th Street, Cleveland, Ohio 44113.

Richard Norris, last known address, 10127 South Blvd., Apartment 2, Cleveland, Ohio 44108.

NOTICE OF PUBLIC HEARING

**Notice of Public Hearing
By the Council Committee
On City Planning**

**Mercedes Cotner
Committee Room 217
City Hall, Cleveland, Ohio
On Wednesday, June 10, 1998
1:00 P.M.**

Notice is hereby given to all interested property owners that the Council Committee on City Planning will hold a public hearing in the Mercedes Cotner Committee Room 217, City Hall, Cleveland, Ohio, on Wednesday, June 10, 1998, at 1:00 P.M., to consider the following ordinances now pending in the Council:

Ord. No. 1756-96.

By Councilmen Jackson, Britt and Paulenske.

An ordinance establishing the Midtown Business Revitalization District (BRD) and to repeal Ord-

nance No. 965-95 passed June 12, 1995. (Map Change No. 1915, Sheet Nos. 5 & 4).

Ord. No. 1868-97.

By Councilman Britt.
An ordinance establishing the Fairhill Village Historic Landmark District. (Map Change No. 19617 Sheet No. 9).

Ord. No. 160-98.

By Councilman Polensek.
An ordinance to change the Use District of lands on the northeastern side of Ivanhoe Road, N.E. between Yorick Avenue, N.E. and south of Mandalay Avenue, N.E. (Map Change No. 1968, Sheet No. 7).

Ord. No. 161-98.

By Councilman Polensek.
An ordinance to change the Use, and Area Districts of lands on the westerly side of East 200 Street from Mohican Avenue, N.E., north to City Line. (Map Change No. 1967, Sheet No. 7).

Ord. No. 250-98.

By Councilman Zone.
An ordinance to change the Use and Area Districts of lands on the easterly side of West 130 Street between Matherson Avenue, S.W. and Leeila Avenue, S.W. (Map Change No. 1970, Sheet No. 12).

Ord. No. 330-98.

By Councilman Polensek.
An ordinance to change the Use District of lands on both sides of Lakeport Road, N.E. to Lakeshore Boulevard, N.E. approximately 345.80' southwest of Brazil Road, N.E. (Map Change No. 1969, Sheet No. 7).

Ord. No. 332-98.

By Councilman Westbrook.
An ordinance establishing the Lorain Station Historic Landmark District. (Map Change No. 1971, Sheets Nos. 1 & 2).

Ord. No. 333-98.

By Councilmen Zone and Westbrook.
An ordinance establishing the West 117 Street/Berea Road Business Revitalization District. (BRD) (Map Change No. 1946, Sheets Nos. 1 & 2).

Ord. No. 622-98.

By Councilman Polensek.
An ordinance to amend Section 1 of Ordinance No. 2106-97 passed February 9, 1998 relating to changing the Use and Height Districts of lands between South Waterloo Road, N.E. and the New York Central Railroad and between Neff Road, N.E. and East 200 Street. (Map Change No. 1966, Sheet No. 7).

Ord. No. 623-98.

By Councilman Rybka.
An ordinance to amend Section 1 of Ordinance No. 2107-97 passed February 9, 1998 relating to changing the Use Area of lands on the westerly side of East 78 Street between Aetna Road, S.E. and Osage Avenue, S.E. (Map Change No. 1964, Sheet No. 6).

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

EDWARD W. RYBKA,
Chairman
Committee on City Planning

May 27 and June 3, 1998

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, JUNE 10, 1998

Eight (8) Alpha Server Disk Drives, Including Installation, for the Division of Administrative Services, Department of Community Development, as authorized by Ordinance No. 2458-92, passed by the Council of the City of Cleveland, January 25, 1993.

May 27, 1998 and June 3, 1998

THURSDAY, JUNE 11, 1998

Eriesside and West 3rd Street Area Pump Station — Phase I, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 2020-97, passed by the Council of the City of Cleveland.

A DEPOSIT OF FIFTY DOLLARS (\$50.00) CERTIFIED CHECK OR MONEY ORDER WILL BE REQUIRED FOR EACH SET OF PLANS AND SPECIFICATIONS. THE DEPOSIT WILL BE REFUNDED IF THE PLANS AND SPECIFICATIONS ARE RETURNED IN GOOD CONDITION WITHIN (15) DAYS AFTER THE BID OPENING DATE.

May 27, 1998 and June 3, 1998

FRIDAY, JUNE 12, 1998

Building Materials — Used Paving Bricks, for the various divisions of City Government, Department of Finance, as authorized by Ordinance No. 2205-96, passed by the Council of the City of Cleveland, January 13, 1997.

Hydraulic Cylinder Repair, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 431-98, passed by the Council of the City of Cleveland, April 27, 1998.

Hydraulic Pumps, Motors and Valve Repair, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 431-98, passed by the Council of the City of Cleveland, April 27, 1998.

May 27, 1998 and June 3, 1998

WEDNESDAY, JUNE 17, 1998

North Royalton-Akins 30" Water Supply Main, Phase I, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 964-93, passed by the Council of the City of Cleveland, June 13, 1993.

A DEPOSIT OF TWO HUNDRED DOLLARS (\$200.00) CERTIFIED CHECK OR MONEY ORDER WILL BE REQUIRED FOR EACH SET OF PLANS AND SPECIFICATIONS. THE DEPOSIT WILL BE REFUNDED IF THE PLANS AND SPECIFICATIONS ARE RETURNED IN GOOD CONDITION WITHIN (15) DAYS AFTER THE BID OPENING DATE.

A PRE-BID MEETING WILL BE HELD ON TUESDAY, JUNE 9, 1998, 9:30 A.M., IN THE ENGINEER'S CONFERENCE ROOM ON THE 5TH FLOOR AT 75 ERIEVIEW PLAZA, CLEVELAND, OHIO 44114. ATTENDANCE IS NOT MANDATORY.

Two (2) Remittance Processing Machines, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 2100-97, passed by the Council of the City of Cleveland, February 2, 1998.

May 27, 1998 and June 3, 1998

THURSDAY, JUNE 18, 1998

Labor and Materials to Install Aviation Communications Equipment and to Remove Existing Equipment, for the various divisions of the Department of Port Control, as authorized by Ordinance No. 1470-97, passed by the Council of the City of Cleveland, September 22, 1997.

A PRE-BID CONFERENCE WILL BE HELD ON TUESDAY, JUNE 9, 1998, 1:30 P.M., IN THE DEPARTMENT OF PORT CONTROL'S BAGGAGE CLAIM CONFERENCE ROOM, 5300 RIVERSIDE DRIVE, CLEVELAND, OHIO.

Materials to Install, Replace or Repair Airfield Signage, for the various divisions of the Department of Port Control, as autho-

rized by Ordinance No. 2183-97, passed by the Council of the City of Cleveland, February 2, 1998.

May 27, 1998 and June 3, 1998

FRIDAY, JUNE 19, 1998

Decorative Safety Post Light Program (Installation), for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 508-98, passed by the Council of the City of Cleveland, May 18, 1998.

A MANDATORY PRE-BID MEETING WILL BE HELD ON THURSDAY, JUNE 11, 1998, 3:00 P.M., AT CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

Post Light Program (Material), for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 508-98, passed by the Council of the City of Cleveland, May 18, 1998.

A MANDATORY PRE-BID MEETING WILL BE HELD ON THURSDAY, JUNE 11, 1998, 11:00 A.M., AT CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

May 27, 1998 and June 3, 1998

WEDNESDAY, JUNE 17, 1998

Easton Park Site Improvements and Luke Easter Park Sidewalk Improvements, for the Division of Research, Planning and Development, Department of Parks, Recreation and Properties, as authorized by Ordinance Nos. 1264-97 and 1965-97, passed by the Council of the City of Cleveland, July 16, 1997 and December 15, 1997, respectively.

A DEPOSIT OF TWENTY FIVE DOLLARS (\$25.00) CERTIFIED CHECK OR MONEY ORDER WILL BE REQUIRED FOR EACH SET OF PLANS AND SPECIFICATIONS. THE DEPOSIT WILL BE REFUNDED IF THE PLANS AND SPECIFICATIONS ARE RETURNED IN GOOD CONDITION WITHIN (15) DAYS AFTER THE BID OPENING DATE.

June 3, 1998 and June 10, 1998

THURSDAY, JUNE 18, 1998

Five (5) Insulated Food Distribution Carts, for the Division of Correction, Department of Public Health, as authorized by Ordinance No. 2042-97, passed by the Council of the City of Cleveland, December 15, 1997.

Phase II — Software, for the Department of Port Control, as authorized by Ordinance No. 1275-97, passed by the Council of the City of Cleveland, September 22, 1997.

June 3, 1998 and June 10, 1998

ADOPTED RESOLUTIONS AND ORDINANCES

Ord. No. 298-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of curb bumpers and plow blades, for the Division of Streets, Department of Public Service.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of curb bumpers and plow blades in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Streets, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 21346)

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

Passed May 18, 1998.

Effective May 25, 1998.

Ord. No. 301-98.

By Councilmen Sweeney and Johnson (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of guard rail elements, posts, end wings, and necessary hardware, for the Division of Streets, Department of Public Service.

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

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

Section 1. That the Director of Public Service is hereby authorized and directed to make a written

requirement contract in accordance with the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of guard rail elements, posts, end wings, and necessary hardware in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Streets, Department of Public Service. Bids shall be taken in such manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of said items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

Section 2. The cost of said contract shall be charged against the proper appropriation account and the Director of Finance shall certify thereon the amount of the initial purchase thereunder, which purchase, together with all subsequent purchases, shall be made on order of the Commissioner of Purchases and Supplies pursuant to a requisition against such contract duly certified by the Director of Finance. (RL 21337)

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

Passed May 18, 1998.

Effective May 25, 1998.

REPRINT

Res. No. 941-98.

By Councilman Coats.

An emergency resolution urging The Civil Service Commission to amend its rules to define the term "bona fide resident of the City of Cleveland".

Whereas, Section 74(c) of the Charter of the City of Cleveland and Rule 4.40G of The Rules of the Civil Service Commission of the City of Cleveland provide that a person who is a bona fide resident of the City of Cleveland at the time of the filing of his/her application for examination have added to their score ten (10) points, if they passed the exam; and

Whereas, bona fide resident must be defined to mean a person who at the time of the filing of his/her application for an examination has been a resident of the City of Cleveland for at least one (1) year; 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 hereby urges The Civil Service Commission to take whatever action is necessary to define "bona fide resident of the City of Cleveland" as used in Section 74(c) of the Charter of the City of Cleveland and Rule

4.40G of the Rules of The Civil Service Commission to mean a person who has had as his/her primary residence a residence in the City of Cleveland for at least one (1) year at the time of his/her filing an application for examination with said Commission.

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 May 18, 1998.

Effective May 27, 1998.

REPRINT

Ord. No. 1279-97.

By Councilmen Smith, Rybka and Westbrook (by departmental request). An emergency ordinance authorizing the Director of Port Control to employ one or more professional consultants to provide engineering services necessary to design the relocation of Brook Park Road.

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, provided the City of Cleveland sells the general airport revenue bonds authorized by Ordinance No. 923-97, passed June 9, 1997, the Director of Port Control is hereby authorized and directed to employ by contract one or more engineers or one or more firms of engineers for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to design the relocation of Brook Park Road.

The selection of said consultants for such services shall be made by the Board of Control upon the nomination of the Director of Port Control from a list of qualified consultants available for such employment as may be determined after a full and complete canvass by the Director of Port Control for the purpose of compiling such a list. The compensation to be paid for such services shall be fixed by the Board of Control. The contract herein authorized shall be prepared by the Director of Law, approved by the Director of Port Control, and certified by the Director of Finance. Prior to such Board of Control selection, the Director of Port Control shall notify the Chairman of the Aviation and Transportation Committee, in writing, of the proposed consultant and the pending selection of such consultant by the Board.

Section 2. That the costs for such services herein contemplated shall be paid from the proceeds of the sale of the general airport revenue bonds of the City of Cleveland authorized by Ordinance No. 923-97, passed June 9, 1997, and from any fund or subfunds to which any federal grants for said contract are credited, Request No. 22506.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of

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

Passed May 11, 1998.

Effective May 20, 1998.

REPRINT

Ord. No. 307-98.

By Councilmen Sweeney, Westbrook, Rybka and Johnson (by departmental request).

An emergency ordinance to amend the title and Section 1 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, relating to the acquisition boundaries of real property located in the vicinity of Cleveland Hopkins International Airport; to enact new Section 8 and to renumber existing Section 8 as new Section 9.

Whereas a full effort is to be made by the Administration to tender purchase offers to homeowners before the end of 1998; and

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

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

Section 1. That the title and Section 1 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, are hereby amended to read, respectively, as follows:

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to purchase real property, including homes and/or parcels, located within the boundaries of Forestwood Avenue, Brysdale Avenue, Interstate 71 right-of-way, Springdale Avenue and Westport Avenue and West 198th Street in the City of Cleveland; authorizing the Director of Port Control to employ one or more consultants or one or more firms of consultants to provide professional services necessary to perform services including, but not limited to, architectural, engineering, noise measurement and administrative services for sound insulation of homes located in the vicinity of Cleveland Hopkins International Airport; determining the method of making the public improvement of construction for Phase II of the sound insulation improvement program for homes located in the vicinity of Hopkins Airport, and authorizing the Director of Port Control to enter into contract or contracts for the making of such improvements, for the Division of Cleveland Hopkins International Airport, Department of Port Control.

Section 1. That the Commissioner of Purchases and Supplies is hereby authorized to purchase all real property, including homes and/or parcels, located within the boundaries of Forestwood Avenue and Brysdale Avenue (north), Interstate 71 right-of-way (east), Springdale Avenue and Westport Avenue (south), and West 198th Street (west), as part of the City's noise abatement program, for the Division of Cleveland Hopkins International Airport, Department of Port Control, located within the following described area, provided that the grant agreement applicable to a par-

ticular parcel is executed prior to the purchase of that parcel:

ACQUISITION BOUNDARIES CLEVELAND HOPKINS INTERNATIONAL AIRPORT

Beginning on the centerline of Rocky River Drive S.W. (width varies) at its intersection with the Westerly prolongation of the Northerly line of the Riverview Subdivision No. 2 as shown by the recorded map in Volume 95, Page 38 of Cuyahoga County Records;

Thence Easterly along said Westerly prolongation and the Northerly line of said Riverview Subdivision No. 2 to its intersection with the Westerly right-of-way line of Interstate Route 71;

Thence Southwesterly along the Westerly right-of-way of said Interstate Route 71 to its intersection with the Southerly line of the Riverview Subdivision No. 2 as aforesaid;

Thence Westerly along the Southerly line of the aforesaid Riverview Subdivision No. 2 and its Westerly prolongation to the centerline of Rocky River Drive S.W.;

Thence Southerly along the centerline of said Rocky River Drive S.W. to its intersection with the Easterly prolongation of the Southerly line of the Conger-Helper Realty Company's Home Gardens Allotment as shown by the recorded map in Volume 63, Page 10 of Cuyahoga County Records;

Thence Westerly along the Easterly prolongation and the Southerly line of the said Conger-Helper Realty Company's Home Gardens Allotment and its Westerly prolongation to its intersection with the Easterly line of the C. & D. Southwest Subdivision;

Thence Southerly along the said C. & D. Southwest Subdivision to the Southeast corner of Sublot Number 71 in said Subdivision;

Thence Westerly along said Sublot Number 71 to its intersection with the Easterly line of West 198th Street (70 feet wide);

Thence Southerly along the Easterly line of said West 198th Street to its intersection with the Easterly prolongation of the Southerly line of Elsmere Avenue S.W. (50 feet wide);

Thence Westerly along the Easterly prolongation and the Southerly line of Elsmere Avenue S.W. to its intersection with the Southerly prolongation of the Westerly line of Sublot Number 130 in the C. & D. Southwest Subdivision as aforesaid;

Thence Northerly along the Southerly prolongation and the Westerly line of Sublot Number 130 through 145 both inclusive and the Northerly prolongation thereof to its intersection with the centerline of Midvale Avenue S.W. (50 feet wide);

Thence Easterly along the centerline of Midvale Avenue S.W. to its intersection with the centerline of West 198th Street as aforesaid;

Thence Northerly and Westerly along the centerline of said West 198th Street to its intersection with the centerline of Forestwood Avenue S.W.;

Thence Northerly along the centerline of said West 198th Street to its intersection with the Westerly prolongation of the Northerly line of Sublot Number 15 in the aforesaid C. & D. Southwest Subdivision;

Thence Easterly along the Westerly prolongation and the Northerly line of Sublot Number 15 through 34, both inclusive and the Easterly pro-

longation thereof to its intersection with the Northerly line of Sublot Number 1 in The West River Subdivision Number 1 as shown in Volume 159, Page 27 of Cuyahoga County Records;

Thence continuing Easterly along Sublot Numbers 1 through 37, both inclusive of said Subdivision, and the Easterly prolongation thereof to its intersection with the centerline of Rocky River Drive S.W.;

Thence Southerly along the centerline of said Rocky River Drive S.W. to the place of beginning.

Section 2. That Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed

December 18, 1995, is hereby supplemented by enacting new Section 8 to read as follows:

Section 8. That no properties acquired pursuant to this ordinance will be resold to any third parties without the prior approval of Council through the passage of legislation.

Section 3. That the existing Section 8 of Ordinance No. 930-95, passed June 19, 1995, as amended by Ordinance No. 2150-95, passed December 18, 1995, is renumbered to "Section 9".

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives

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

Passed May 11, 1998.

Effective May 20, 1998.

**COUNCIL COMMITTEE
MEETINGS**

NO MEETINGS

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Bold type in sections indicates amendments

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