

The City Record

Official Publication of the City of Cleveland

February the Twelfth, Nineteen Hundred and Ninety-Seven

| | |
|-----------------------------|------------------------|
| Mayor | |
| Michael R. White | |
| President of Council | |
| Jay Westbrook | |
| Clerk of Council | |
| Artha Woods | |
| Ward | Name |
| 1 | Charles L. Patton, Jr. |
| 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 | Gary M. Paulenske |
| 14 | Helen K. Smith |
| 15 | Merle R. Gordon |
| 16 | Patrick J. O'Malley |
| 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 | Charles L. Patton, Jr. | 2986 Ripley Road | 44120 |
| 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 | Gary M. Paulenske | 1020 East 61st Street | 44103 |
| 14 | Helen K. Smith | 3016 Carroll Avenue | 44113 |
| 15 | Merle R. Gordon | 1813 Tampa Avenue | 44109 |
| 16 | Patrick J. O'Malley | 6111 Brookside Drive | 44144 |
| 17 | Timothy J. Melena | 6109 West Clinton Avenue | 44102 |
| 18 | Jay Westbrook | 10513 Clifton Boulevard | 44111 |
| 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
Richard Werner, Executive Assistant for Governmental Affairs.
Susan E. Axelrod, Executive Assistant for Communications and Support Services
Linda Willis, Director, Office of Equal Opportunity

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Karen E. Martines, Law Librarian; Criminal Branch-Justice Center, 8th Flr., Court Towers, 1200 Ontario
Carolyn Watts-Allen, Chief Asst. Prosecutor
Steven J. Terry, Chief Counsel

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City Treasury - Mary Christine Jackman, Treasurer, Room 115
Assessments and Licenses - John Hunt, Commissioner, Room 122
Purchases and Supplies - William A. Moon, Commissioner, Room 128
Printing and Reproduction - James D. Smith, Commissioner, 1735 Lakeside Avenue
Taxation - Nassim Lynch, Tax Administrator, 1701 Lakeside Avenue
Financial Reporting and Control - Keith D. Schuster, Controller, Room 18
Information Systems Services - Hamid Manteghi, Acting Commissioner, 1404 E. 9th St.

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DIVISIONS - 1201 Lakeside Avenue
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Water Pollution Control - Darnell Brown, Commissioner
Utilities Fiscal Control - M. Blech, Commissioner
Cleveland Public Power - Nagah M. Ramadan, Commissioner
Street Lighting Bureau - Frank Schilling, Acting Chief.

DEPT. OF PORT CONTROL - William F. Cunningham, Jr., 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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DIVISIONS - Waste Collection and Disposal - Larry Hines, Commissioner, 5600 Carnegie Avenue.
Streets - Randell T. Scott, Commissioner, Room 25
Engineering and Construction - J. Christopher Nielson, Acting Commissioner, Room 518
Motor Vehicle Maintenance, Daniel A. Novik, Acting Commissioner, Harvard Yards
Architecture - Kenneth Nobile, Commissioner, Room 517

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DIVISIONS - Health - Joyce Atwell-Joyce, Commissioner, Mural Building, 1925 St. Clair Avenue
Environment - Carolyn Wallace, Acting Commissioner, Mural Building, 1925 St. Clair Avenue
Correction - Thomas Hardin, Commissioner, Cooley Farms, 4041 Northfield Road

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DIVISIONS - Police - Rocco Pollutro, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street
Fire - Robert M. Derrit, Acting Chief, 1645 Superior Avenue
Traffic Engineering & Parking - David Ritz, Commissioner, 2001 Payne Ave.
Dog Pound - John Baird, Chief Dog Warden, 2690 W. 7th Street
Emergency Medical Service - Bruce Shade, Commissioner, 2001 Payne Ave.

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DIVISIONS - Convention Center & Stadium - James Glending, Commissioner, Public Auditorium, E. 6th and Lakeside Ave.
Property Management - Vernon Robinson, Commissioner, E. 49th & Harvard

Parking Facilities - Michael Cox, 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 - M. Fallon, Commissioner, Burke Lakefront Airport

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DIVISIONS - Administrative Services - Terrence Ross, Commissioner.
Neighborhood Services - Jack F. Krumhansl, Acting Commissioner.
Neighborhood Development - Terri Hamilton, Commissioner.
Building & Housing - Lisa Thomas, Commissioner, 5th Floor, City Hall.

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

DEPT. OF AGING - Rm. 122, Delores A. Lynch, Director

COMMUNITY RELATIONS BOARD - Room 11, Gary L. Holland, 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. McBee, 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.

BOARD OF REVISION OF ASSESSMENTS - Law Director, Sharon Sobol Jordan; Pres. Finance Director, _____, Director Sec'y. Council President Jay Westbrook.

BOARD OF SIDEWALK APPEALS - Henry Guzmán, Service Director; Law Director, Sharon Sobol Jordan, Councilman Roosevelt Coats.

BOARD OF REVIEW - (Municipal Income Tax) - Law Director, Sharon Sobol Jordan, Utilities Director, Michael Konicek; President of Council, Jay Westbrook.

CITY PLANNING COMMISSION - Room 501 - Hunter Morrison, Director; Rev. Albert T. Rowan, Chairman; _____, Vice Chairman, David Bowen, Anthony J. Coyne, Lawrence A. Lumpkin, Gloria Jean Pinkney, Councilman Edward W. Rybka.

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

MORAL CLAIMS COMMISSION - Sharon Sobol Jordan, _____, Councilman Jay Westbrook.

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

CLEVELAND LANDMARKS COMMISSION - Room 519, _____, Director; R. Schanfarber, Chairman; Paul Volpe, Vice Chairman; Robert Keiser, Secretary; Judge Lillian Burke, James Gibans, Hunter Morrison, Kenneth Nobile, Theodore Sande, Randall Shorr, Shirley Thompson, Councilmen Craig E. Willis and Helen K. Smith.

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 Salvatore R. Calandra | 13A |
| Judge Colleen C. Cooney | 14A |
| Judge C. Ellen Connally | 15C |
| Judge Mabel M. Jasper | 14D |
| Judge Mary E. Kilbane | 12B |
| Judge Kathleen A. Keough | 12C |
| Judge Ralph J. Perk, Jr. | 14B |
| Judge Raymond L. Pianka (Housing Court Judge) | 13B |
| Judge Angela R. Stokes | 14C |
| Judge Gerald F. Sweeney | 13D |
| Judge Robert S. 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 Referee

The City Record



OFFICIAL PUBLICATION OF THE CITY OF CLEVELAND

Vol. 84

WEDNESDAY, FEBRUARY 12, 1997

No. 4340

CITY COUNCIL

MONDAY, FEBRUARY 10, 1997

The City Record

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ARTHA WOODS

Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 1994-1997

MONDAY—Alternating

9:30 A.M.—**Public Parks, Property & Recreation Committee:** Johnson, Chairman; Rybka, Vice Chairman; Patton, Paulenske, Robinson, Sweeney, White.

9:30 A.M.—**Public Health Committee:** Robinson, Chairman; Zone, Vice Chairman; Britt, Gordon, Jackson, Melena, O'Malley.

MONDAY—Alternating

11:00 A.M.—**Public Service Committee:** Coats, Chairman; O'Malley, Vice Chairman; Britt, Johnson, Melena, Smith, Sweeney, Westbrook, White.

11:00 A.M.—**Employment, Affirmative Action & Training Committee:** Patmon, Chairman; Robinson, Vice Chairman; Gordon, Jackson, Lewis, Melena, Polensek.

MONDAY

2:00 P.M.—**Finance Committee:** Westbrook, Chairman; Polensek, Vice Chairman; Britt, Coats, Johnson, Lewis, Patmon, Paulenske, Robinson, Rybka, Smith.

TUESDAY

10:00 A.M.—**Community and Economic Development Committee:** Jackson, Chairman; Paulenske, Vice Chairman; Britt, Coats, Lewis, Melena, Patton, Smith, Willis.

1:30 P.M.—**Legislation Committee:** Willis, Chairman; Melena, Vice Chairman; Dolan, Johnson, Rybka, Sweeney, White.

WEDNESDAY—Alternating

10:00 A.M.—**Aviation & Transportation Committee:** Smith, Chairman; Paulenske, Vice Chairman; Dolan, Patton, Sweeney, White, Willis.

10:00 A.M.—**Public Safety Committee:** Polensek, Chairman; Willis, Vice Chairman; Dolan, Gordon, Jackson, O'Malley, Patmon, Patton, Zone.

WEDNESDAY—Alternating

1:30 P.M.—**Public Utilities Committee:** Patton, Chairman; Polensek, Vice Chairman; Coats, Dolan, Lewis, O'Malley, Patmon, Willis, Zone.

1:30 P.M.—**City Planning Committee:** Rybka, Chairman; Britt, Vice Chairman; Gordon, O'Malley, Paulenske, White, Zone.

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio February 10, 1997.
The meeting of the Council was called to order, the President, Jay Westbrook in the chair.

Councilmen present: Britt, Coats, Dolan, Gordon, Jackson, Johnson, Lewis, Melena, O'Malley, Patmon, Patton, Polensek, Robinson, Smith, Sweeney, Westbrook, White, Willis, Zone.

Also present were Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Spellman, Hamilton, Nolan, Warren, Lynch, Holland, Willis, Morrison and Acting Director Withers.

Absent: Mayor White and Director Denihan.

Pursuant to Ordinance No. 2926-76, the Council Meeting was opened with a prayer offered by Rev. Eugene Ward, Jr., Pastor of Greater Love Missionary Baptist Church. Pledge of Allegiance.

MOTION

On the motion of Mr. Polensek, the reading of the minutes of the last meeting be dispensed with and the journal approved.

COMMUNICATIONS

File No. 244-97.

From Vorys, Sater, Seymour and Pease re: Cleveland Thermal Energy Corporation/The Plain Dealer Publishing Company. Received.

FROM THE DEPARTMENT OF LIQUOR CONTROL

File No. 193-97.

Re: Transfer of Location Application - 08768310001 - Joe Bowie dba Hazel's Food Market, 4052 East 123rd Street. (Ward 2). Received.

File No. 194-97.

Re: Transfer of Location Application - 4071993 - Hungarian Hostess, Inc., dba Balaton Restaurant, 13133 Shaker Square. (Ward 4). Received.

File No. 195-97.

Re: Stock Application - 1901813 - Dana Distributors, Inc. dba Hough Beverage & Deli, 8800 Hough

Avenue, first floor. (Ward 7). Received.

File No. 196-97.

Re: Transfer of Ownership Application - 15795820005 - Clyde's Diner, Inc. dba Downtown Mo's, Terminal Tower Mall, Unit 72-11, 230 Huron Road. (Ward 13). Received.

File No. 197-97.

Re: Transfer of Ownership Application - 1792241 - C.P. Cleveland, Inc., 230 Huron Road, Unit 100-06. (Ward 13). Received.

File No. 198-97.

Re: Transfer of Ownership Application - 0313149 - Baljit Kaur Atwal dba Clark Convenient Food Plus, 3315 Clark Avenue. (Ward 14). Received.

File No. 199-97.

Re: Transfer of Location Application - 29835040001 - G & S Foods, Inc., 4601 Lorain Avenue. (Ward 14). Received.

File No. 200-97.

Re: Transfer of Ownership Application - 8010968 - Deborah and Andrew Sforzo dba Bella Pizza, 4830 Memphis Avenue, first floor and basement. (Ward 15). Received.

File No. 201-97.

Re: Transfer of Ownership Application - 3452552 - Gurdeep Corp. dba New York Deli & Beverage, 14939 Puritas Avenue. (Ward 20). Received.

COMMUNICATIONS

File No. 202-97.

February 10, 1997

The Honorable Jay Westbrook
President, Cleveland City Council
601 Lakeside Avenue
Cleveland, Ohio 44114

Dear Council President Westbrook:

Due to the death of Todd Schmidt, I would like to amend Judge Lillian Burke's appointment to the City Planning Commission in order to fill this vacancy. This term expires November 2, 1998.

Reverend Albert Rowan has rescinded his resignation letter prior to its effective date and will remain on the City Planning Commission.

Sincerely,

Michael R. White
Mayor

Received.
Without objection, amended appointment approved. Yeas 19. Nays 0.

CONDOLENCE RESOLUTION

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

Res. No. 240-97. Arla J. Johnson.

CONGRATULATORY RESOLUTIONS

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

Res. No. 241-97. Mr. Kim Jong, II.

Res. No. 242-97. Edward F. Zale.

RESOLUTION OF RECOGNITION

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

Res. No. 243-97. Michael Dostal.

FIRST READING EMERGENCY ORDINANCES REFERRED

Ord. No. 203-97.

By Mayor White.

An emergency ordinance authorizing the Mayor, the Director of Law and the Director of Port Control to enter into a Settlement Agreement with the City of Brook Park regarding the expansion of Cleveland Hopkins International Airport.

Whereas, over the past three years, Brook Park and Cleveland have been involved in disputes regarding the operation and growth of Cleveland Hopkins International Airport; and

Whereas, Brook Park and Cleveland have prepared an Agreement to forge a permanent resolution to these disputes; and

Whereas, this Council believes that this Agreement represents a fair, reasonable and mutually beneficial settlement to these disputes; 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 other ordinance or Codified Ordinance to the contrary, the Mayor, the Director of Law and the Director of Port Control are hereby authorized to enter into a Settlement Agreement with the City of Brook Park regarding the expansion of Cleveland Hopkins International Airport, which shall provide, among other things, for a change in the municipal boundaries between the two cities, the conveyance of fee interests in certain parcels of land currently owned by Cleveland, the filing of requests for stays and subsequent dismissal of certain pending litigation between the two cities related to airport expansion and for the payment of consideration and other amounts as set forth in the Settlement Agreement.

Section 2. That the Settlement Agreement authorized by Section 1 of this ordinance shall be substantially in the form as follows:

**SETTLEMENT
AGREEMENT REGARDING
CLEVELAND HOPKINS
INTERNATIONAL AIRPORT**

This SETTLEMENT AGREEMENT (this "Agreement") is made this ___ day of _____, 1997, between the CITY OF BROOK PARK ("Brook Park") and the CITY OF CLEVELAND ("Cleveland"), both of which are municipal corpo-

rations organized and existing under Article XVIII of the Ohio Constitution.

RECITALS

Whereas, the Cleveland Hopkins International Airport (the "Airport") is owned and operated by Cleveland and bordered to the south by Brook Park and other suburban communities;

Whereas, over the past three years, Brook Park and Cleveland have been involved in long-standing disputes regarding the operation and growth of the Airport;

Whereas, on August 1, 1996, the Mayors of Brook Park and Cleveland announced that they had agreed on a Framework for Settlement of the disputes between their Cities, which Framework includes provisions that allow for expansion of the Airport, foster economic expansion and job creation, allow for completion of Aerospace Parkway, and facilitate the comprehensive redevelopment of portions of Brookpark Road;

Whereas, Brook Park and Cleveland recognize that ensuring the future of the Airport as a safe, efficient facility capable of serving the region's long-term air transportation needs is a vital element in the continuing prosperity of the greater Cleveland metropolitan area;

Whereas, Brook Park and Cleveland have a mutual interest in fostering economic expansion and job creation in the greater Cleveland metropolitan area;

Whereas, Brook Park and Cleveland recognize that valuable contributions to such economic expansion can be made by (i) completing the construction of Aerospace Parkway from the west end of Brook Park to Route 237; and (ii) initiating a comprehensive redevelopment plan for the portions of Brookpark Road which form the boundary between Brook Park and Cleveland;

Whereas, Brook Park and Cleveland have prepared this Agreement to forge a permanent resolution to the long-standing disputes between them and to avoid the uncertainties and continued expense to both Cities of ongoing litigation between them;

Whereas, Brook Park and Cleveland believe that this Agreement represents a fair, reasonable and mutually beneficial settlement of their disputes, and that, in light of this Agreement, it is appropriate to dismiss the ongoing litigation between them in accordance with the terms of this Agreement; and

Whereas, Brook Park and Cleveland agree that the payments, fee interest property transfers and jurisdictional property interest transfers and boundary changes to be effected under this Agreement are fair and reasonable, represent appropriate consideration for the respective interests being transferred, and comprise an integral part of this Agreement and the settlement of litigation and claims herein.

Now therefore, in consideration of the mutual covenants contained herein, Brook Park and Cleveland hereby agree as follows:

AGREEMENT**1. DEFINITIONS**

As used in this Agreement, the words and phrases defined below have the following meanings:

1.1 **Agreed Road Alignment** means the surface roadway alignment proposed by Brook Park for the completion of Aerospace Parkway in

Brook Park, which alignment is described in Appendix 1 to this Agreement, and is generally depicted on the map attached as Appendix 2 to this Agreement.

1.2 **Agreement** means this inter-governmental Settlement Agreement and all exhibits and attachments hereto.

1.3 **Airport** means Cleveland Hopkins International Airport.

1.4 **Airport Envelope** means the airport land within the New Boundaries of Cleveland as generally depicted on the map attached as Appendix 2 to this Agreement.

1.5 **Airport-Related Business** means a business which, for commercial reasons, depends upon close proximity to the Airport for the conduct of its core business.

1.6 **Airport Trust Indenture** means the Trust Indenture from the City of Cleveland to the Cleveland Trust Company, dated as of November 1, 1976, as amended by the First Supplemental Trust Indenture from the City of Cleveland to Ameritrust Company National Association, as Trustee, dated as of April 1, 1990, and as further amended by the Second Supplemental Trust Indenture from the City of Cleveland to Society National Bank, as Trustee, dated as of August 1, 1994.

1.7 **Approval Date** means the date on which this Agreement takes effect and becomes binding on the Cities pursuant to Paragraph 12.1 below.

1.8 **As Built ALP** means the configuration of runways and related facilities which has been, or is being constructed in whole or in part by Cleveland. References herein to the Submitted ALP shall be interpreted as referring to the As Built ALP if construction shall have commenced in whole or in part on the new runways depicted on the Submitted ALP.

1.9 **Boundary Adjustment Ordinances** means the ordinances attached as Appendix 3 to this Agreement, implementing the municipal boundary adjustments and the transfer of Jurisdictional Property Interests, including zoning, franchise and taxing powers, described in Paragraph 2.2 below.

1.10 **Business** means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.

1.11 **Cities** means the home rule municipalities of Brook Park and Cleveland.

1.12 **Closing Date** means the date established pursuant to Paragraph 12.4 below.

1.13 **Conveyed Property** means the real property in which Fee Interests or Jurisdictional Property Interests are to be conveyed between the Cities on the Closing Date.

1.14 **Existing CEI Power Line Property** means the fee interest or easement, as the case may be, owned by the Cleveland Electric Illuminating Company, its successors and assigns ("CEI") that runs from the CEI substation located immediately south of Cedar Point Road within the NASA Lewis Research Center, through the eastern portion of Brook Park Aerospace Technology Park and certain Cleveland-owned property, to the edge of the Rocky River Reservation and on which are located overhead electric power lines and towers.

1.15 Fee Interests means the property interests in the Fee Interest Parcels.

1.16 Fee Interest Parcels means the real property to be conveyed from Cleveland to Brook Park on the Closing Date pursuant to Paragraph 2.1 below, which property consists of the parcels which are legally described in Appendix 4 of this Agreement and whose boundary lines are generally depicted on the maps attached as Appendix 2 to this Agreement.

1.17 Jurisdictional Property Interests means the property interests consisting of all municipal governmental powers, including zoning, franchise and taxing powers, to be exchanged between Cleveland and Brook Park on the Closing Date pursuant to Paragraph 2.2 below, which property interests relate to the property whose boundary lines are generally depicted on the map attached as Appendix 2 to this Agreement.

1.18 Model Airplane Property means the property owned by Cleveland east of Grayton Road on which is presently sited a field for the use of model airplanes, plus certain adjacent property located west of Grayton Road, which properties together comprise one of the parcels that makes up the Fee Interest Parcels.

1.19 Motor Vehicle Lessor Tax Revenue means revenue generated by taxes imposed on the privilege of leasing motor vehicles to a lessee pursuant to Chapter 198 of the Codified Ordinances of Cleveland, Ohio, 1976, or a similar ordinance enacted by Brook Park.

1.20 Municipal Income Tax Revenue means revenue generated by taxes imposed on the net profits of businesses and on the salaries, wages, commissions and other compensation of individuals authorized and levied by the Cities pursuant to Chapter 718 of the Ohio Revised Code.

1.21 New Boundaries means the municipal jurisdictional boundaries of Brook Park and Cleveland that will result from this Agreement.

1.22 Parking Tax Revenue means revenue generated by taxes imposed on the privilege of housing, storing or parking a motor vehicle in or on any parking facility pursuant to Chapter 196 of the Codified Ordinances of Cleveland, Ohio, 1976, or a similar ordinance enacted by Brook Park.

1.23 Potential Airport Development Property means that property in Cleveland which was acquired with Airport funds and which is located north of Brookpark Road, and whose boundary lines are generally depicted on the map attached as Appendix 5 to this Agreement.

1.24 Property Transfer Ordinance means the ordinance attached as Appendix 6 to this Agreement, authorizing the transfer of the Fee Interest Parcels described in Paragraph 2.1 below.

1.25 Record of Decision means the written record of decision of the Federal Aviation Administration ("FAA"), as required by 40 C.F.R. Section 1505.2, with respect to approval of the Submitted ALP and other matters related to the Submitted ALP.

1.26 Restricted Area means that portion of the property within the Airport Envelope that lay, as of August 1, 1996, within the municipal boundaries of Brook Park.

1.27 Submitted Airport Layout Plan ("ALP") means the Airport Layout Plan for Cleveland Hopkins International Airport which was submitted to the FAA by Cleveland in May, 1996, as revised from time to time in accordance with Paragraphs 4.1 and 4.2 below prior to the issuance of the Record of Decision. The parties acknowledge that the ALP submitted in May, 1996 contains two alternatives for construction of new runways and related facilities, which alternatives are referred to therein as "Alternative 2A" and "Alternative 2B". For purposes of Paragraph 2.5, "Submitted ALP" includes the configuration of runways and other Airport facilities as exist within the Airport on the Approval Date.

2. TRANSFER OF FEE AND JURISDICTIONAL PROPERTY INTERESTS

2.1 Transfer of Fee Interests. In consideration of all the terms and conditions of this Agreement, Cleveland shall, subject to the reservations set forth in Paragraph 2.5 below, transfer to Brook Park the Fee Interests in the Fee Interest Parcels, together with all easements, rights, privileges, hereditaments and appurtenances thereunto belonging. Such transfer of Fee Interests shall be authorized by the Property Transfer Ordinance.

2.2 Transfer of Jurisdictional Property Interests and Adjustment of Boundary Lines. In consideration of all the terms and conditions of this Agreement and pursuant to the provisions of Section 709.37 of the Ohio Revised Code, Cleveland and Brook Park agree that the boundary line separating Cleveland and Brook Park shall be changed, transferring all Jurisdictional Property Interests, including zoning, franchise and taxing powers therein, and establishing a new boundary line between the Cities. The new boundary line between Cleveland and Brook Park shall be as generally depicted on the map attached as Appendix 2 to this Agreement and as legally described in Appendix 7 to this Agreement. Such transfer of Jurisdictional Property Interests and boundary line adjustments shall be implemented by the Boundary Adjustment Ordinances which shall be in accordance with the Ohio Revised Code.

2.3 Conditions of Fee Interest Conveyance. Title to the Fee Interest Parcels shall be transferred by official quitclaim deed subject only to those encumbrances approved by the parties. The deeds shall be in the form attached hereto as Appendix 8.

2.4 Potential Environmental Contamination on the Fee Interest Parcels.

2.4.1 Phase I and Phase II Audits. The parties acknowledge that they have obtained Phase I environmental audits of the Fee Interest Parcels (the "Phase I Audits"), which Phase I Audits have been prepared in accordance with the requirements of Ohio's Voluntary Action Program ("VAP") as described in Ohio Revised Code Section 3746.01 et seq. and regulations promulgated thereunder. Based on the results of the Phase I Audits, the parties acknowledge that the consultant that has prepared the

Phase I Audits (the "Consultant") has recommended that Phase II Environmental Audits (the "Phase II Audits") be conducted for certain of the Fee Interest Parcels. For those Fee Interest Parcels for which the Consultant has not recommended preparation of a Phase II Audit, the parties shall proceed to work jointly with the Consultant to obtain both a "No Further Action Letter" from the Consultant and a "Covenant Not to Sue" from the Ohio Environmental Protection Agency ("OEPA"), both as defined in the VAP, which documents shall be obtained prior to the Closing Date. For those Fee Interest Parcels for which the Consultant has recommended preparation of a Phase II Audit, the parties shall proceed to have the Consultant complete such Phase II Audits in accordance with the requirements of the VAP, which Phase II Audits are expected to be completed within 75 days after the Approval Date.

2.4.2 Phase II Audits: Remediation Plan.

2.4.2.1 For those Fee Interest Parcels, if any, for which, based upon the results of the Phase II Audit, the Consultant has identified no environmental contamination that would require remediation to obtain a No Further Action Letter and a Covenant Not to Sue, the parties shall proceed to work jointly with the Consultant to obtain both a No Further Action Letter and a Covenant Not to Sue, which documents shall be obtained prior to the Closing Date.

2.4.2.2 For those Fee Interest Parcels, if any, for which, based upon the results of the Phase II Audits, the Consultant has identified environmental contamination that would require remediation in order to obtain a No Further Action Letter and a Covenant Not to Sue, the parties shall work with the Consultant to develop a plan for remediation (the "Remediation Plan") of the applicable Fee Interest Parcels, which plan shall be prepared in a manner that would allow the Consultant to issue a No Further Action Letter and the OEPA to issue a Covenant Not to Sue, each in accordance with the VAP, and which Remediation Plan shall include an estimate of the costs of implementing such plan.

2.4.2.3 Once the Remediation Plan is prepared, Brook Park shall proceed to manage the implementation of the Remediation Plan, if it chooses to undertake remediation of the Fee Interest Parcels in question. Cleveland shall not be liable for any portion of the costs of implementing a Remediation Plan which exceed the costs which Cleveland would have to pay for remediation if the Fee Interest Parcels were not conveyed under this Agreement, and Cleveland shall not be required to pay any costs of the Remediation Plan earlier than it would have to pay such costs if the Fee Interest Parcels were not conveyed under this Agreement, provided, however, that this provision shall not be construed to preclude Brook Park or any subsequent owner of the Fee Interest Parcels from asserting any other claim under federal or state law, including common law, with respect to the contamination which is addressed pursuant to the Remediation Plan or any amendment thereto.

2.4.3 Election Not to Accept Fee Interest.

2.4.3.1 Notwithstanding anything in this Paragraph 2.4 to the contrary, for those Fee Interest Parcels, if any, for which the Consultant has not recommended that Phase II Audits be prepared, or, if the Consultant recommends that Phase II Audits be prepared, but, based on such Phase II Audits, does not recommend that environmental remediation be conducted, Brook Park shall have the option to elect not to accept title to any or all of such parcels if the Consultant is unwilling to issue a No Further Action Letter or if OEPA is unwilling to issue a Covenant Not to Sue for such parcels. In addition, for those Fee Interest Parcels for which a Phase II Audit and Remediation Plan have been prepared, Brook Park shall have the option, based on the results of the Remediation Plan, to elect not to accept title to any or all of such Fee Interest Parcels.

2.4.3.2 Brook Park shall make such election by written notice to Cleveland within 30 days after receipt of notice that either the No Further Action Letter or the Covenant Not to Sue cannot be obtained, or within 30 days after receipt of the Remediation Plan, whichever is applicable. If Brook Park notifies Cleveland that it has made such election, the parties shall proceed to Closing in accordance with Paragraph 12.4 below, but the Fee Interest Parcels to be conveyed to Brook Park shall not include the parcel or parcels to which Brook Park has elected not to receive title. With respect to such Fee Interest Parcels to which Brook Park has elected not to receive title, Cleveland shall grant to Brook Park such right-of-way over such parcels as may be necessary for construction and operation of Aerospace Parkway along the Agreed Roadway Alignment. In addition, for a period of five years from the Closing Date, Cleveland agrees that it will not assert for any purpose in any forum that it has devoted such parcels to a public purpose.

2.4.4 Representation Regarding Delivery of Information.

2.4.4.1 Cleveland represents that, as of the Closing Date, Cleveland officials have provided to Brook Park to the best of their knowledge (1) any sampling data that is within Cleveland's possession that has been collected concerning the Fee Interest Parcels since January 1, 1980; and (2) any information submitted on behalf of the Airport to OEPA or the United States Environmental Protection Agency ("EPA") with respect to any "spill or release", as defined below, on the Fee Interest Parcels or parcels adjacent to the Fee Interest Parcels.

2.4.4.2 As used in this Paragraph 2.4.4, "spill or release" shall mean any spill or release onto soils, surface water or groundwater of a substance which is (1) a hazardous waste under the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), (2) a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.), (3) a toxic pollutant or hazardous substance under the Clean Water Act (33 U.S.C. Section 1251 et seq.), (4) oil or petroleum products, including

waste oil or polychlorinated biphenyls; or (5) an extremely hazardous substance under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. Section 11001 et seq.).

2.5 Avigation Easement, and Waiver, Release and Restrictions on Use.

2.5.1 Reservation of Avigation Easement. Cleveland reserves from the conveyance of the Fee Interest Parcels a perpetual and assignable right-of-way and easement for the free and unobstructed passage of all aircraft, regardless of the owner or operator of such, in, through and across all of the air space above the Fee Interest Parcels subject to such rights, terms and conditions as contained herein. (For purposes of this Agreement, "aircraft" is defined as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air or space regardless of the form of propulsion which powers said aircraft in flight.) Cleveland, its successors in interest and assigns, shall have and hold such easement and right-of-way, and all rights appertaining thereto, until the Airport shall be abandoned and shall cease to be used for public airport purposes.

2.5.2 Waiver, Release and Restrictions on Use. Brook Park, its successors in interest and assigns shall:

2.5.2.1 waive, remise and release any right or cause of action which Brook Park may now have or may have in the future against Cleveland, on account of or arising out of noise, vibrations, fumes, dust, fuel, particles and all other effects that may be caused or may have been caused by the operation of aircraft landing at, taking off from, or operating at or on the Airport, or in or near the air space above the Fee Interest Parcels;

2.5.2.2 not allow any structure, object, tree, shrubbery, or other vegetation to remain on the Fee Interest Parcels which encroaches upon or extends into the areas where the FAA would prohibit such structures, objects, trees, or other vegetation pursuant to the rules and regulations of the FAA or where such structures, objects, trees, or other vegetation would be prohibited under the rules and regulations of the Ohio Airport Protection Act, Ohio Rev. Code Section 4561.30 et seq. based upon the Submitted ALP;

2.5.2.3 not use, permit or suffer the use of the Fee Interest Parcels in such a manner, based on the Submitted ALP, as to create electrical interferences with radio communication to or from any aircraft or between any airport installation and any aircraft; or as to make it difficult for aircraft pilots to distinguish between airport lights and other lights; or as to produce glare or reflection which would impair aircraft pilots landing or taking off at the Airport; or as to impair visibility in the vicinity of the Airport, or as to otherwise endanger the landing, take off, or maneuvering of aircraft;

2.5.2.4 not authorize the construction of any facility or improvement on the Fee Interest Parcels which attracts or results in the concentration of birds or other wildlife which, based on the Submitted ALP, would interfere with the safe operation of aircraft in flight; and

2.5.2.5 not construct on the Fee Interest Parcels a structure which would be a noncompatible land use based on the Submitted ALP, pursuant to 14 CFR Section 150.7 (1996 ed.).

2.5.3 Reservation of Rights. Cleveland, its successors in interest and assigns shall have the continuing right to cause or allow in all of the air space above the surface of the Fee Interest Parcels such noise, fumes, vibrations, dust, fuel, particles and all other effects that may be caused by or result from the operation of aircraft, whether or not said aircraft overfly or intrude into the easement area described in Paragraph 2.5.1 above.

2.5.4 Injunctive Relief. If Brook Park defaults in or violates the obligations set forth in Paragraphs 2.5.1, 2.5.2 or 2.5.3 above, and fails reasonably to cure such default or violation upon notification by Cleveland, then Cleveland shall be entitled to injunctive relief as provided in Paragraph 13.5 below.

2.6 Covenants Running With the Land. Brook Park and Cleveland agree that the obligations of Brook Park set forth in Paragraph 2.5 above shall also constitute covenants running with the land of the Fee Interest Parcels both as to burdens and benefits. Whenever "Brook Park" is used in Paragraphs 2.5 or 2.6, it refers to Brook Park and its successors in interest and assigns. Cleveland's failure to exercise its remedies reserved herein shall not be construed to waive any rights Cleveland may have to enforce Brook Park's obligations through any and all rights and remedies which Cleveland or its successors in interest and assigns may have at law or in equity for the enforcement of covenants. No waiver by Cleveland at any time of any of Brook Park's obligations shall be deemed or taken as a waiver at any time thereafter of the same or any other obligation or of the strict and prompt performance thereof. No waiver shall be valid against Cleveland unless reduced to writing and signed by an officer of Cleveland duly empowered to execute same.

2.7 Easements. Cleveland specifically reserves, and the conveyance of the Fee Interest Parcels is made expressly subject to, such easements in favor of Cleveland as are set forth in the deeds to the Fee Interest Parcels attached as Appendix 8.

2.8 FAA Approval. As soon as practical after the Approval Date, Cleveland shall submit to the FAA a request, together with all supporting documentation that is required under FAA Order 5190.6A, paragraph 4-17b, for approval of any of the property conveyances set forth in Paragraph 2.1 above for which FAA approval is required. The parties agree that they will cooperate to take all reasonable actions necessary to secure such FAA approval, including compliance, or agreement to comply, with such terms and conditions as the FAA may require.

2.9 Brook Park Cooperation. Brook Park shall cooperate in any reasonable efforts by Cleveland to acquire the remaining parcels of land that are located within the Airport Envelope and are not presently owned by Cleveland.

3. USE OF REAL PROPERTY

3.1 Agreement Not to Contest Public Purpose. Cleveland agrees, for a period of five years after the Approval Date, that it will not contest for any purpose in any forum whether Brook Park has devoted any property conveyed to Brook Park pursuant to this Agreement to

a public purpose. Brook Park agrees, for a period of five years after the Approval Date, that it will not contest for any purpose in any forum whether Cleveland has devoted any property within the Airport Envelope to a public purpose.

3.2 Future Property Ownership. At any time after the Approval Date that either City acquires fee title, lease rights, or any other right to use any real property located in the other City for Airport or any other purposes, Brook Park and Cleveland shall abide by and follow all laws concerning zoning applicable at such time with respect to the use of such real property.

3.3 Access to the Airfield from Fee Interest Parcels. To the extent that any of the Fee Interest Parcels are used for an Airport-Related Business which requires airfield access for the conduct of its core business, Cleveland shall permit such access subject to the following limitations:

3.3.1 such Airport-Related Business and airfield access shall comply with all requirements and guidance of the FAA and the Airport affecting such access;

3.3.2 such Airport-Related Business and access do not materially interfere with any current or planned use of land within the Airport Envelope as shown on the Submitted ALP or any submitted or approved airport layout plan as it may appear from time to time; and

3.3.3 all capital, operating, maintenance and security costs of such access, including the Airport's standard provisions regarding indemnification and insurance, shall be provided for by Brook Park or the Airport-Related Business in a form (a) sufficient to guarantee that such costs will not at any time be paid by Cleveland, and (b) approved in writing in advance by Cleveland, which approval shall not be unreasonably withheld.

3.3.4 Cleveland shall not be required at any time to adjust plans, design or use of land or facilities within the Airport Envelope to facilitate or preserve the opportunity for airfield access from the Fee Interest Parcels, provided that Cleveland will not materially interfere with any such access which is in use at any time.

3.4 Access to Brook Park from the Airport Envelope. In addition to any entry provided pursuant to Paragraph 4.6 below, Brook Park shall provide the Airport access to public roadways in Brook Park on terms no less favorable than those granted to other property owners with frontage on the applicable public roadways. If a roadway to which access is provided on the Approval Date is closed, relocated or abandoned by Brook Park, Brook Park shall provide reasonably equivalent access to other roadways in Brook Park. Nothing in this Paragraph 3.4 is intended to affect Brook Park's obligations under State and federal law with respect to access to roads within its jurisdiction.

3.5 Access to Fee Interest Parcel Located East of the I-X Center. The Cities acknowledge that access to the Fee Interest Parcel located east of the I-X Center currently is available from the Airport service road located south of the Key Corp. hangar on the Airport, and that such service road is not a public roadway. Cleveland shall provide Brook Park access to such parcel along such Airport service road so long as such access does not interfere with

the security and safe operations of the Airport. If Cleveland eliminates or closes such service road, Cleveland shall provide reasonably equivalent access to such parcel.

4. AIRPORT DEVELOPMENT

4.1 Changes to Submitted ALP. The Cities recognize that changes may be made to the Submitted ALP prior to issuance of the Record of Decision. However, after the Approval Date and prior to the issuance of the Record of Decision, Cleveland shall not make or permit any Material Change, as defined in Paragraph 4.2 below, to the Submitted ALP.

4.2 Material Change Defined. Any change to the Submitted ALP prior to the issuance of the Record of Decision will be deemed material for purposes of Paragraph 4.1 above if:

4.2.1 based on Ohio Rev. Code Section 4561.30 et seq., it would necessitate height limitations on property located within the New Boundaries of Brook Park that are more restrictive than those necessitated by the improvements contemplated on the Submitted ALP, or

4.2.2 it requires, in order to comply with FAA requirements or guidance relating to obstructions to navigation, the acquisition by Cleveland of real property or real property interests within the New Boundaries of Brook Park.

4.3 Support for ALP. Brook Park shall support fully the approval of the Submitted ALP at all levels of review, including FAA review and any required federal and state environmental reviews. Brook Park shall take any necessary or desirable actions requested by Cleveland to demonstrate support for the approval of the Submitted ALP and for federal grant and passenger facility charge ("PFC") funding of the capital projects set forth on the Submitted ALP.

4.4 Depiction of Aerospace Parkway on Future ALPs. Any airport layout plan that Cleveland submits to the FAA at any time after the Approval Date shall depict the location of Aerospace Parkway, either as proposed or, after its construction is completed, as constructed.

4.5 Construction within Airport Envelope.

4.5.1 Restrictions on Construction in Certain Airport Envelope Areas. Within the Restricted Area, Cleveland shall authorize or permit construction of only runways, taxiways and related safety and security facilities, hangars, aircraft and airport maintenance buildings, and other facilities (such as overnight and second-day package delivery facilities) which because of their function must be adjacent to aprons and taxiways.

4.5.2 Reasonable Design and Signage Standards. Subject to applicable federal regulations, orders, policies and standards, and to approval by the FAA, if required, structures constructed after the Closing Date in the Restricted Area shall be consistent with the design and signage standards set forth in Appendix 9 ("Design Standards").

4.5.3 Compliance with Laws. All construction activities conducted within the Restricted Area shall comply with federal and state laws, including applicable environmental laws.

4.5.4 Restrictive Covenant. To insure compliance with Paragraphs 4.5.1 and 4.5.2 above, Cleveland shall impose the Design Standards on the Restricted Area by restrictive covenant ("Restrictive Covenant"). The Restrictive Covenant shall be in the form attached as Appendix 10, shall run with the land and shall inure to the benefit of Brook Park, its successors in interest and assigns. The Restrictive Covenant shall further provide that, at least 15 days prior to issuance of a building permit for any construction subject to the Restrictive Covenant, Cleveland shall deliver written notice thereof to Brook Park, and shall provide Brook Park a period of 10 days to review the plans and specifications for such construction. If, upon review of such plans and specifications, Brook Park believes that such construction will not comply with the terms of the Restrictive Covenant, Brook Park shall so notify Cleveland on or before the end of Brook Park's 10-day review period, and the Directors of Law of the Cities or their designated representatives shall meet to attempt to resolve their differences.

4.5.5 Dispute Resolution. If the Cities cannot resolve their differences under Paragraph 4.5.4 above, either City may submit such differences to a panel (the "Panel") consisting of one representative appointed by the Mayor of each City and a third member selected by those two representatives, which third member shall be a professional experienced in planning or design. In the event that either City so elects, both Cities shall proceed in accordance with this Paragraph 4.5.5, and neither City may proceed with any other remedies at law, equity or as specifically contemplated under this Agreement until the process set forth in this Paragraph has been completed. The Panel shall be selected within 10 days after either City notifies the other City of its determination that their differences cannot be resolved. The Panel shall meet and propose a resolution not later than 10 days after all Panel members have been selected. Proceedings of the Panel shall be informal, without hearings or formal submissions, and the Panel shall have no power to impose any resolution and its decisions shall not be binding on the Cities. The Mayors of the Cities or their designated representatives shall review the Panel's proposed resolution and shall meet at least one time after issuance of the proposed resolution to seek to resolve their differences based on such resolution. If the Cities are unable to resolve their differences after such meeting, the Cities may proceed to invoke any other remedies at law or in equity or as set forth in this Agreement for breach of a provision of this Agreement.

4.6 One Public Entry to Airport.

4.6.1 Sole Public Entry. The sole public entry to the Airport shall be from Route 237 and/or Snow Road, although the particular location of entry from either of these roads may be changed in Cleveland's discretion at any time, or from time to time. This provision shall not be construed to prevent Cleveland from maintaining other secondary entries to the Airport, provided such entries are not available to scheduled airline passengers and are used exclu-

sively for emergency, service/maintenance, deliveries, air cargo, access to leased premises by tenants and subtenants or other airport-related purposes.

4.6.2 Replacement Public Entry. If in the future Cleveland desires to construct any additional or replacement public entry at a different location, it shall furnish Brook Park with a map depicting such proposed public entry not less than 180 calendar days prior to seeking FAA approval for or beginning construction of such public entry, whichever is earlier. Brook Park shall have 60 calendar days from the date of receipt of such map to notify Cleveland that Brook Park desires to have an equivalent public entry constructed from within Brook Park. If Brook Park so notifies Cleveland within the specified time period, Cleveland shall construct, at its own expense, an additional public entry to the Airport from a mutually agreed upon location within Brook Park. Such public entry shall be equivalent, with regard to all material characteristics affecting public access, to the proposed public entry depicted on the map provided pursuant to this Paragraph and shall be completed within a timeframe equivalent to the timeframe for completion of the additional or replacement public entry in Cleveland.

4.6.3 Change of Permitted Uses by Brook Park. Brook Park shall not take any affirmative actions to change permitted uses in any way which would substantially interfere with the proposed Snow Road interchange depicted on the Submitted ALP.

5. SOUND INSULATION PROGRAM

5.1 Definition of Program. Cleveland shall seek federal funding, for a five-year period commencing in calendar year 1998, for a sound insulation program for residential structures in Cleveland, Brook Park and other communities near the Airport ("Sound Insulation Program"). Cleveland acknowledges that the existing residential structures in Brook Park within the area shown on the map attached as Appendix 11, are eligible for participation in the Sound Insulation Program. Insulation shall be performed in accordance with engineering, construction and financial standards generally applicable in Cleveland's airport residential sound insulation program.

5.2 Applications for Sound Insulation Funding.

5.2.1 Application Requirement. Cleveland shall, at least annually, submit an application for Sound Insulation Program funding under the FAA's Airport Improvement Program ("AIP") or other appropriate grant program. Cleveland shall provide a copy of any such application to Brook Park.

5.2.2 Limitations on Statements of Priority. In order to ensure that that portion of the Sound Insulation Program applicable within Brook Park receives equitable consideration for funding, until such Sound Insulation Program has been completed, Cleveland shall not state or otherwise imply in any application or related material submitted to any agency in connection with any application for funding of any noise mitigation program that funding of any noise mitigation program is of higher priority, greater significance or more

immediate importance than funding for the Sound Insulation Program applicable within Brook Park. The fact that an application for noise mitigation funding which seeks greater funding for other noise mitigation programs than for the Sound Insulation Program applicable within Brook Park shall not in itself be interpreted as a failure to comply with this paragraph, so long as such application seeks funding for the Sound Insulation Program in an amount sufficient to complete the Sound Insulation Program.

5.3 Allocation of Funds for Sound Insulation. Any funds which Cleveland receives or uses for sound insulation purposes from 1998 to 2002 shall be divided annually or cumulatively by Cleveland between sound insulation in Brook Park and sound insulation in all other communities (including Cleveland) in proportion to the total number of residential units eligible for the Sound Insulation Program.

5.4 Noise Compatibility Program. If Cleveland seeks FAA approval of a Part 150 Noise Compatibility Program between 1998 and 2002, that program shall incorporate the Sound Insulation Program.

5.5 Impacts of Airport Development Program. If the final documentation prepared pursuant to the National Environmental Policy Act ("NEPA") for the Airport expansion program shown on the Submitted ALP shows that new areas in Brook Park outside those eligible for participation in the Sound Insulation Program as of the Approval Date will lie within the LDN 65 dB contour as a result of the expansion program, Cleveland shall, in any subsequent application for federal grant funds for airport expansion, include a request for sufficient funds to pay the cost of insulation of such residential units in Brook Park.

6. USE OF MODEL AIRPLANE PROPERTY

6.1 Park. The parties acknowledge that Brook Park may develop the Model Airplane Property as a park or other use. In the event that Brook Park decides not to develop the Model Airplane Property as a park and decides to make it available for commercial development, Brook Park shall so notify Cleveland, and shall cooperate with Cleveland in identifying and recruiting potential tenants to the Model Airplane Property.

6.2 Alternative Development. In the event that Brook Park proposes to enter into a binding agreement with a third party for the sale or use of the Model Airplane Property for a land use other than an Airport-Related Business, Brook Park shall provide written notice to Cleveland at least 60 calendar days before entering into any such agreement. The notice required under this Paragraph 6.2 shall include a summary of key terms of the proposed binding agreement, including key financial, tax, and infrastructure terms, and shall identify explicitly those terms which Brook Park deems material.

6.3 Cleveland Proposal. Upon receipt of notice from Brook Park under the Paragraph 6.2 above, Cleveland shall have 45 calendar days in which to present to Brook Park a counterproposal to develop the Model Airplane Property for an Airport-Related Business. Brook

Park shall review any such counterproposal and shall determine, in its reasonable discretion, which of the two proposals better satisfies the terms that Brook Park deems material. If Brook Park determines that Cleveland's counterproposal better satisfies such terms, Brook Park shall accept Cleveland's counterproposal and enter into an appropriate agreement with the appropriate parties to provide for the implementation of such counterproposal.

7. CONSTRUCTION AND RELOCATION OF ROADWAY AND POWER LINES

7.1 Completion of Aerospace Parkway. Brook Park may construct Aerospace Parkway along the Agreed Road Alignment. The Cities believe that the Agreed Road Alignment depicted on the map attached as Appendix 1 to this Agreement is consistent with FAA guidance on ensuring the safe, full-service operation of the runways depicted on the Submitted ALP. The Cities, however, recognize that the results of required engineering and environmental studies may necessitate changes in the final alignment for Aerospace Parkway such that the actual as-constructed alignment of Aerospace Parkway may deviate from the Agreed Road Alignment but only to the extent that such alignment is consistent with the safe, full-service operation of the runways shown on the Submitted ALP. Cleveland shall grant Brook Park a nonexclusive easement for placement and maintenance of the CEI Power Lines along the alignment set forth in Appendix 12, which easement shall not exceed 10 feet from the Agreed Road Alignment on the Airport side, and provided that (a) the placement of such CEI Power Lines within such easement does not interfere with the safe, full service operation of the runways shown on the Submitted ALP, and (b) there is not sufficient area for such CEI Power Lines in the right-of-way on the non-Airport side of the Agreed Road Alignment.

7.2 Roadway Costs.

7.2.1 Construction of Agreed Road Alignment. Except as provided in Paragraph 7.2.3 below, Brook Park shall pay all costs actually incurred for the planning, design, engineering, acquisition of non-Cleveland property interests for, and construction of Aerospace Parkway as provided in Paragraph 7.1 above. If, either before or after the Closing Date, Cleveland determines, or Cleveland is informed by the FAA, that a surface roadway along the alignment contemplated in the previous paragraph would interfere with the safe, full-service operation of the runways depicted on the Submitted ALP, Cleveland shall have the right to require Brook Park to depress or tunnel such roadway, provided, however, that Cleveland shall have the option to choose whether the road is tunnelled or depressed and shall pay for all reasonable costs and expenses related to such depression or tunneling as provided in Paragraph 7.2.2 below.

7.2.2 Tunnelling or Depressing Road. If Cleveland seeks to require Brook Park to depress or tunnel Aerospace Parkway pursuant to Paragraph 7.2.1 above, Cleveland shall so notify Brook Park in writing. In such notification, Cleveland shall specify the changes in elevation of the road surface (i.e., sur-

face, depressed or tunneled) that it desires based on appropriate documentation, and shall agree to execute such documents as Brook Park determines, in its reasonable discretion, are necessary to demonstrate Cleveland's binding commitment to reimburse Brook Park for all reasonable costs incurred for changes in planning, design, engineering and construction thereby necessitated.

7.2.3 Costs Related to Reconfiguration of Parking at Aerospace Technology Park. The parties acknowledge that the location of the northwestern boundary of the Airport and the construction of Aerospace Parkway adjacent to such boundary may require the reconfiguration of certain of the parking areas that presently serve Aerospace Technology Park. Cleveland shall pay all reasonable costs incurred by Brook Park or the property owner associated with such reconfiguration, including, without limitation, design and engineering costs, surveying costs, paving and striping costs, landscaping costs necessary to landscape the reconfigured parking in a manner consistent with Aerospace Technology Park design standards, and costs associated with storm water management.

7.3 FAA Approval. Cleveland shall take whatever action is necessary, including paying the cost of tunneling or depressing Aerospace Parkway and any other action required, to assist Brook Park in obtaining FAA approval of the completion of Aerospace Parkway, as described in Paragraph 7.1 above. Such FAA approval shall include any FAA approvals necessary to comply with the terms of Resolution 95-053 of the Northeast Ohio Area Coordinating Agency.

7.4 ODOT/FHWA Approval. Brook Park shall assume responsibility for obtaining all necessary approvals from all governmental agencies including the Ohio Department of Transportation ("ODOT") and the Federal Highway Administration ("FHWA"), for the completion of Aerospace Parkway, as described in Paragraph 7.1 above, including any changes in the roadway elevation required under the terms of Paragraph 7.2.1 above. Cleveland shall support fully the approval of the completion of Aerospace Parkway at all levels of review, including ODOT review, approval, and local match determination, and FHWA review and approval. Cleveland shall take such reasonable actions as Brook Park requests in order to demonstrate such support.

7.5 Relocation of CEI Power Lines.

7.5.1 Relocation. The Cities acknowledge that the planned expansion of the Airport will require relocation of the CEI power lines (the "CEI Power Lines") located on the Existing CEI Power Line Property to the route depicted on the map attached as Appendix 12 to this Agreement (with such minor deviations from such route contained in the final design plans and/or required by CEI for safe construction and operation), which route runs primarily underground, beneath the right-of-ways for the proposed Aerospace Parkway and for Ruple Parkway. The Cities further acknowledge that such relocation may require several permits and approvals, including, without limitation, approvals from the Ohio Public Utilities Commission, CEI

and Brook Park, as well as significant costs associated with design, engineering and construction associated with such relocation. Brook Park shall issue on a timely basis all such permits within its authority without the imposition of unreasonable conditions.

7.5.2 Responsibility for Consents and Approvals. Cleveland shall obtain any and all consents or approvals that are legally required for this relocation, including, but not limited to, the consent of CEI and the Ohio Public Utilities Commission, except that Brook Park shall assume responsibility for review by the Brook Park Planning Commission.

7.5.3 Responsibility for Costs and Expenses. Cleveland shall be solely responsible for all costs and expenses associated with such relocation, including, without limitation, costs and expenses associated with obtaining the permits and approvals necessary for such relocation, preparing necessary design and engineering documents, obtaining new easements and conducting the physical construction work necessary to effect such relocation. Notwithstanding any other provision in this Agreement, Cleveland shall not be required to make any payments associated with the relocation of the CEI Power Lines until such relocation is reasonably necessary for Airport safety or efficiency.

7.5.4 Assumption of Obligations by Brook Park. In the event that Brook Park's schedule for construction of Aerospace Parkway contemplates the relocation of the CEI Power Lines in advance of when such relocation is reasonably necessary for Airport safety or efficiency, Brook Park may elect to assume Cleveland's obligations identified in Paragraphs 7.5.2 and 7.5.3 above, in which case Cleveland shall reimburse Brook Park for any reasonable costs and expenses incurred by Brook Park in assuming such obligations. Any costs and expenses not reimbursed within two years of the date they are incurred by Brook Park shall be reimbursed with interest thereon at a rate of 4.8 percent per annum from the date on which Brook Park invoices Cleveland for such costs and expenses. In any event, such costs and expenses shall be reimbursed no later than such time as relocation of the CEI Power Lines would have been necessary for airport safety or efficiency.

7.5.5 Responsibility for Planning and Design. Brook Park shall assume responsibility for all planning, design, engineering, and construction activities associated with the relocation. Cleveland shall reimburse Brook Park for all reasonable costs and expenses incurred in connection with this relocation as described in Paragraph 7.5.3 above.

7.6 Environmental Review. The Cities will allocate as follows the responsibility for complying, to the extent mandated by law, with any requirements for state and federal environmental review, approval, and permitting that may be associated with the implementation of this Agreement:

7.6.1 Brook Park shall assume responsibility for any such requirements associated with the completion of Aerospace Parkway and the relocation of the CEI Power Lines, including any required review under NEPA or section 404 of the Clean Water Act.

7.6.2 Cleveland shall assume

responsibility for any such requirements associated with implementing the Airport expansion depicted on the Submitted ALP, including any required review under NEPA or section 404 of the Clean Water Act.

7.6.3 With regard to each set of requirements described in Paragraphs 7.6.1 and 7.6.2 above, each City shall support fully the process of complying with the other City's mandatory environmental requirements, and shall take such reasonable actions as the City bearing responsibility for each set of requirements requests in furtherance of such compliance, including providing site access, and providing access to City staffs and consultants.

8. DISMISSAL OF PENDING LITIGATION

8.1 Stay and Dismissal of Pending Actions. Within 5 days after the Approval Date, as provided in Paragraph 12.3.2 below, the Cities shall take whatever actions may be necessary, including executing and filing the pleadings attached as Appendix 13 to this Agreement, in order to stay the lawsuits identified below. On the Closing Date, as provided in Paragraph 12.6.3 below, the Cities shall take whatever actions may be necessary, including executing and filing the pleadings attached as Appendix 14 to this Agreement, in order to secure the dismissal with prejudice of the lawsuits identified below.

8.2 Identification of Actions. The lawsuits to be stayed and dismissed pursuant to Paragraph 8.1 above shall consist of the following:

8.2.1 Appeal currently pending in the Court of Appeals for the Eighth District of Ohio in City of Brook Park v. Adams (No. 68780).

8.2.2 Suit currently pending on remand in the Court of Common Pleas, Cuyahoga County, General Division, in City of Cleveland v. City of Brook Park (No. 264580).

8.2.3 Appeal currently pending in the U.S. Court of Appeals for the Sixth Circuit in City of Cleveland v. City of Brook Park (No. 95-3815).

8.3 Relinquishment of Appropriation. On the Closing Date, the Cities shall execute the Relinquishment and Waiver Agreement attached as Appendix 15 to this Agreement, which Relinquishment and Waiver Agreement shall provide the following:

8.3.1 Brook Park shall relinquish all legal right to appropriate the Bence Property as determined by the Probate Court in City of Brook Park v. Adams (No. 1096255), such relinquishment to be effective upon final dismissal of that suit and City of Cleveland v. City of Brook Park (No. 264580) with prejudice.

8.3.2 The Cities shall waive any right to attorney fees or any other costs that otherwise would arise as a result of Brook Park's relinquishment of its right to appropriate the Bence Property.

9. CONSIDERATION

9.1 Payment to Brook Park. In consideration for the mutual covenants contained in this Agreement, the transfer of the Jurisdictional Property Interests to Cleveland and the loss of tax revenues to Brook Park resulting from such transfer, Cleveland shall pay Brook Park the amount of \$3.75 million ("Cleveland's Payment"). Cleve-

land's Payment shall be paid in a single payment if AIP or PFC funding in that amount is available on or before the later of (a) September 30, 1997, or (b) 180 days after the Closing Date. If such funding is not available after Cleveland's best efforts to obtain it by said date, Cleveland shall have the option to pay Cleveland's Payment over a three-year period in three annual installments, as follows:

(i) \$2,916,666.66 payable on the later of (a) September 30, 1997, or (b) 180 days after the Closing Date;

(ii) \$2,916,666.66 payable on the later of (a) September 30, 1998, or (b) one year plus 180 days after the Closing Date; and

(iii) \$2,916,666.68 payable on the later of (a) September 30, 1999, or (b) two years plus 180 days after the Closing Date.

Interest on unpaid principal shall be paid at the rate of 4.8 percent per year, computed from the Closing Date. Cleveland shall notify Brook Park on or before the later of (a) August 30, 1997, or (b) 150 days after the Closing Date whether or not it intends to pay Cleveland's Payment in a single payment or over a three-year period as provided above in this Paragraph 9.1. If Cleveland elects to pay Cleveland's Payment over a three-year period, Cleveland shall have the right at any time or from time to time during such three-year period to prepay the total amount then due in whole or in part, together with accrued interest on the principal so prepaid, provided, however, that Cleveland shall notify Brook Park at least 30 days prior to the date that Cleveland intends to make such prepayment.

9.2 Payment to Cleveland. In consideration for the transfer of the Jurisdictional Property Interests to Brook Park, and the loss of tax revenues to Cleveland's General Fund directly resulting from such transfer, Brook Park shall pay Cleveland the amount of \$3.75 million ("Brook Park's Payment"). Brook Park's Payment shall be paid in a single payment on or before the later of (a) September 30, 1997, or (b) 180 days after the Closing Date. If Cleveland elects to pay Cleveland's Payment over a three-year period as provided in Paragraph 9.1 above, Brook Park may likewise pay Brook Park's Payment over a three-year period in three equal annual installments of \$1.25 million, payable on the same dates as the payments by Cleveland are due pursuant to Paragraph 9.1 above.

Interest on unpaid principal shall be paid at the rate of 4.8 percent per annum, computed from the Closing Date. Brook Park shall have the right at any time or from time to time to prepay the total amount then due in whole or in part, together with accrued interest on the principal so prepaid. In the event Cleveland makes prepayments as provided in Paragraph 9.1 above, Brook Park shall similarly prepay outstanding principal and interest in the same proportion to the prepayment amounts received from Cleveland, within 15 days after it receives any such prepayment from Cleveland.

10. FAIR COMPETITION

10.1 Relocation of Businesses from Brook Park to Cleveland. In the event that any Business relocates from Brook Park Aerospace Technology Park, as it exists as of the

Approval Date outside of the Airport Envelope, to the Potential Airport Development Property, Cleveland shall compensate Brook Park annually for the lost revenue from that Business's activities. Annual compensation shall be equal to the Municipal Income Tax Revenue, Motor Vehicle Lessor Tax Revenue, Parking Tax Revenue and individual income tax revenue that Brook Park received from that Business's activities for the 12 months prior to the relocation, indexed to the CPI Index for all Urban Consumers, U.S. City Average (1982-84=100) (the "CPI Index"). Annual compensation shall continue so long as that Business remains located within the subject area in Cleveland, or 30 years, whichever is shorter.

10.2 Relocation of Businesses from Cleveland to Brook Park. In the event that any Business relocates from the Potential Airport Development Property to a location in Brook Park Aerospace Technology Park, Brook Park shall compensate Cleveland for the lost revenue from that Business's activities. Annual compensation shall be equal to the Municipal Income Tax Revenue, Motor Vehicle Lessor Tax Revenue, Parking Tax Revenue and individual income tax revenue that Cleveland received from that Business's activities for the 12 months prior to the relocation, indexed to the CPI Index. Annual compensation shall continue so long as that Business remains located in Brook Park Aerospace Technology Park, or 30 years, whichever is shorter.

10.3 Relocation of Car Rental Companies. If any car rental company that is located within the Airport Envelope as of the Approval Date relocates its operations to a location in Brook Park, Brook Park will use its best efforts to impose a motor vehicle lessor tax and parking tax at rates identical to those imposed by Cleveland as of the Approval Date. Brook Park will compensate Cleveland on an annual basis in the amount of any revenue generated by Brook Park from such taxes, if adopted, but not to exceed the Motor Vehicle Lessor Tax Revenue and Parking Tax Revenue received by Cleveland from the car rental company's activities for the 12 months prior to relocation, indexed to the CPI Index. Annual compensation under this Paragraph 10.3 will continue so long as that car rental company remains located in Brook Park, or 30 years, whichever is shorter.

11. REGIONAL DEVELOPMENT ISSUES

11.1 Cooperative Regional Support. The Cities shall cooperate in the following endeavors:

11.1.1 Encouraging the survival and growth of the NASA Lewis Research Center other than the rocket engine test facility located adjacent to the Airport.

11.1.2 Encouraging NASA to site the proposed wind tunnel project at or near the NASA Lewis Research Center.

11.1.3 Supporting and promoting the expansion of Regional Transit Authority rail service to serve the I-X Center that does not interfere with Airport operations and does not require funding from the Airport.

12. IMPLEMENTATION

12.1 Approval Date. This Agreement shall take effect and be binding on the Cities and their instrumentalities, officials and employees

on the date that is five (5) business days after the date on which all of the following actions have occurred:

12.1.1 Cleveland has received conditional approval of the Submitted ALP from the FAA, pursuant to FAA Order 5050.4A, paragraph 30(c).

12.1.2 Brook Park has provided evidence, which is acceptable to Cleveland, that it no longer holds any right of reverter or reentry in the property located within Brook Park Aerospace Technology Park which will be located within the Airport Envelope after the Closing Date.

12.1.3 The Brook Park City Council and the Cleveland City Council have taken the following actions:

12.1.3.1 Obtained from their respective Planning Commissions whatever reports, approvals and recommendations are required by applicable City ordinances to implement the terms of this Agreement.

12.1.3.2 Enacted the legislation attached as Appendix 16 to this Agreement (1) approving and authorizing the execution of this Agreement, (2) authorizing the filing of the Request for Stays of all pending litigation described in Paragraph 8.2 above, (3) authorizing the dismissal of the litigation pending between the Cities as described in Paragraph 8.1 above and the execution of the Relinquishment and Waiver Agreement attached as Appendix 15 to this Agreement, and (4) authorizing the payment of the consideration and other amounts set forth in this Agreement, or provided other evidence in writing that such payment is authorized.

12.1.3.3 Enacted the Boundary Adjustment Ordinances.

12.1.4 The Cleveland City Council has enacted the Property Transfer Ordinance.

12.1.5 The Cities have received and have had at least 14 days to review the Phase I Audits.

12.2 Extension of Approval Date. The Approval Date shall occur no later than April 15, 1997 unless the parties agree in writing to an extension of the Approval Date.

12.3 Actions After Approval Date. The following actions shall take place within five (5) business days after the Approval Date:

12.3.1 The Clerk of Council of Cleveland shall deliver a certified copy of its Boundary Adjustment Ordinance, duly enacted by the Council of Cleveland, to the Cuyahoga County Board of County Commissioners (the "County Commissioners"). The Clerk of Council of Brook Park shall deliver a certified copy of its Boundary Adjustment Ordinance, duly enacted by the Council of Brook Park, to the County Commissioners.

12.3.2 Designated representatives from Brook Park and Cleveland shall execute the Requests for Stays attached as Appendix 13 to this Agreement, and such Requests shall be filed with the appropriate courts.

12.3.3 Brook Park and Cleveland shall proceed to have the Phase II Audits completed pursuant to Paragraph 2.4.2 above.

12.4 Closing Date. The Closing Date shall be that date which is 120 days after the Approval Date, provided, however, that the Closing Date may be extended by mutual agreement of the parties pursuant to Paragraph 12.5.2 below.

12.5 Conditions Precedent to Closing.

12.5.1 The following shall be deemed conditions precedent to closing:

12.5.1.1 Cleveland shall not have made Material Changes to the Submitted ALP.

12.5.1.2 Cleveland shall have delivered to Brook Park evidence that the FAA has approved the conveyance of the Fee Interest Parcels to Brook Park pursuant to this Agreement.

12.5.1.3 Cleveland shall have delivered to Brook Park evidence that it has received approval of the release of the Fee Interest Parcels from the Airport Trust Indenture, as amended, by the Trustee, as defined in the Airport Trust Indenture.

12.5.1.4 The County Commissioners shall have approved the changes to municipal boundaries contemplated by Boundary Adjustment Ordinances effective on the Closing Date.

12.5.1.5 Cleveland shall have delivered to Brook Park a letter or other written evidence from the FAA stating that a revision to the Submitted ALP that depicts Aerospace Parkway in the Agreed Roadway Alignment is consistent with and would not result in disapproval of the Submitted ALP.

12.5.1.6 The parties shall have obtained the No Further Action Letters and Covenants Not to Sue, the Phase II Audits, and the Remediation Plan, all as provided in Paragraph 2.4 above.

12.5.1.7 Brook Park shall have provided documentation acceptable to Cleveland which, upon recordation, would eliminate any restrictions on use on the property located within Brook Park Aerospace Technology Park which will be located within the Airport Envelope after the Closing Date.

12.5.2 Extension of Closing Date. If, at any time prior to the Closing Date, the parties determine that any of the conditions precedent set forth in Paragraph 12.5.1 above will not be met before the Closing Date, either party shall have the option to extend the Closing Date for thirty (30) days, by written notice delivered to the other party prior to the Closing Date. If neither party chooses to extend the Closing Date, the condition precedent that has not been satisfied shall be deemed to have been waived by the parties, and the parties shall proceed to Closing. If the Closing Date is so extended and the conditions precedent have not been met by the last day of the 30-day extension period, either party shall have the option to extend the Closing Date for an additional thirty (30) days by written notice to the other party delivered prior to the end of the 30-day extension period. In addition to the two extension periods provided above in this Paragraph 12.5.2, the parties shall have two additional 30-day extension periods, which may be exercised in the same manner provided for above in this Paragraph 12.5.2. If, by the end of the fourth extension period, if one shall occur, the conditions precedent to Closing have not been satisfied, and the parties do not choose to waive such conditions, this Agreement shall terminate, and the parties shall be relieved of any further liability hereunder.

12.6 Actions on the Closing Date. The following actions and events shall take place on the Closing Date:

12.6.1 The Property Transfer Ordinance and the Boundary Adjustment Ordinances will take effect.

12.6.2 A designated representative of Cleveland shall execute and

record the deeds attached in Appendix 8 to this Agreement and other conveyance documents as may be required to effect the transfer of the Fee Interest Parcels.

12.6.3 A designated representative of Cleveland and of Brook Park shall execute the Motions to Dismiss attached in Appendix 14 to this Agreement and such Motions shall be filed with the appropriate courts.

12.6.4 A designated representative of Brook Park and of Cleveland shall execute the Relinquishment and Waiver Agreement attached as Appendix 15 to this Agreement.

12.6.5 A designated representative of Brook Park shall record the documentation eliminating any restrictions on use on the property located within Brook Park Aerospace Technology Park which will be located with the Airport Envelope after the Closing Date.

12.6.6 Cleveland shall have provided to Brook Park for delivery to the ODOT Bureau of Programming and Division of Aviation, the FHWA and the FAA, a letter in the form attached as Appendix 17, stating that Cleveland will take whatever steps are required of it in Paragraph 7 above to ensure the completion of Aerospace Parkway as provided in Paragraph 7.1 above.

13. GENERAL PROVISIONS

13.1 Duration. This Agreement shall remain in full force and effect unless and until terminated by written agreement of both Cities.

13.2 Amendment. This Agreement may be altered, amended or modified only by a written instrument executed pursuant to the governmental consent of both Brook Park and Cleveland. Neither this Agreement, nor any term hereof, may be changed, modified or abandoned, in whole or in part, except by instrument in writing.

13.3 Costs Related to Agreement. The parties acknowledge that preparation and implementation of this Agreement has required them to incur various costs and expenses for consultants and other items associated with the preparation of the Appendices to this Agreement. The parties agree that they will share those costs listed on Appendix 18 (the "Shared Costs") on an equal basis, and that they shall reconcile their respective expenditures related to the Shared Costs on the Closing Date. To the extent that any such expenditures are incurred after the Closing Date or such expenditures are incurred before the Closing Date but invoices therefore are not available until after the Closing Date or the Closing Date does not occur, the parties shall take appropriate actions to insure that they have reconciled such Shared Costs so that they are shared on an equal basis.

13.4 Timing for Each City is Independent. Each City shall determine in its sole discretion the appropriate timing for the implementation of those elements of this Agreement that will occur within such City's New Boundaries after the Closing Date, including, but not limited to, the completion of Aerospace Parkway, and the development activities planned or undertaken at the Airport. Such determinations shall be made based on those factors which such City deems relevant, without regard to the timing of any development activities planned or undertaken in the other City. Notwithstanding the foregoing, the parties

acknowledge that time is of the essence in relocation of the CEI Power Lines.

13.5 Enforcement.

13.5.1 The parties acknowledge and agree that damages as a result of any breach of this Agreement by either party are not readily ascertainable, that money damages or other legal relief will not adequately compensate for any such breach, and that the party which has not breached this Agreement is entitled to injunctive relief compelling the specific performance of those obligations under this Agreement. The parties further acknowledge that the breach of any of the provisions of this Agreement would constitute irreparable harm to the other party, and each party hereby waives any defenses to the grant of a temporary restraining order related to any such breach.

13.5.2 Subject to Paragraphs 13.7 and 13.8 below, Cleveland or Brook Park, as the case may be, may pursue all remedies now or hereafter existing at law or in equity to collect all amounts due or to become due under this Agreement and to enforce the performance and observance of any obligation of either party under this Agreement. All remedies shall be cumulative and not exclusive of one another or of statutory remedies not specifically referenced herein. The exercise of any one or more remedies described above in this Paragraph 13.5.2, or of any one or more remedies existing at law, in equity or by statute, shall not constitute a waiver or election with respect to any other available remedy. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

13.5.3 The parties further acknowledge that the numerous executory promises provided for in this Agreement necessitate different remedies for enforcement of different provisions of this Agreement. Accordingly, any court seeking to enforce the provisions of this Agreement shall look first to any enforcement provisions contained in the section of the Agreement that contains the provision in question and then to this Paragraph 13.

13.5.4 The parties further acknowledge that changes in circumstances shall not forgive compliance with the terms of this Agreement.

13.6 Remedies. Venue for any and all legal actions regarding this Agreement or any of its parts shall lie in the Court of Common Pleas, Cuyahoga County, Ohio.

13.7 Notice of Default; Informal Dispute Resolution. At no time shall Brook Park or Cleveland be deemed to be in default under this Agreement unless and until notice has been provided in writing specifying such default ("Notice of Default"). Immediately after receipt of a Notice of Default, the respective Directors of Law of the Cities shall meet and attempt to resolve the matter. If they fail to resolve the matter within 10 days after delivery of the Notice of Default, the Mayors of each City shall forthwith appoint a representative expert in the matters in dispute. The designated representatives shall meet and attempt to resolve the matter and shall deliver their joint or separate reports within 30 days after delivery of the

Notice of Default. If they fail to resolve the matter, their report or reports shall be delivered to the respective Mayors and Council presidents of the Cities, together with such other information as either City may elect to present to either Mayor or Council president. All such information shall be made available to the public.

13.8 Informal Dispute Resolution Mechanism Mandatory. No action shall be commenced in any court to enforce or otherwise apply, interpret or seek cure for a breach of this Agreement before 30 days have elapsed after the completion of the informal dispute resolution mechanism set forth in the Paragraph 13.7 above, except that either party shall be entitled to request a temporary restraining order, as provided in Paragraph 13.5.1 above, to maintain the status quo during the pendency of the informal dispute resolution mechanism set forth in Paragraph 13.7 above.

13.9 Actions Prohibited. Whenever this Agreement prohibits a particular action by either City, that City also is prohibited from causing or permitting such action to be taken by a third party.

13.10 Waiver of Rights. The failure of either City to object to, or to take affirmative action with respect to, any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of such violation or breach, or of any future violation, breach or wrongful conduct. Subsequent acceptance of performance under this Agreement by Brook Park or Cleveland shall not be deemed to be a waiver of any preceding breach by the other City of the terms of this Agreement, regardless of Brook Park's or Cleveland's knowledge of such preceding breach at the time of acceptance of performance. No waiver or relinquishment of a right or power under this Agreement shall be deemed a waiver of such right or power at any other time, nor shall any failure of either City to require or exact full and complete compliance with any of the covenants or conditions of this Agreement be construed as changing in any manner the terms hereof or preventing either City from enforcing the full provisions hereof.

13.11 Waiver of Performance Prior to Closing. Notwithstanding anything to the contrary in Paragraph 13.10 above, acceptance of performance at the Closing Date by Brook Park or Cleveland shall be deemed to be a waiver of any preceding breach by the other City.

13.12 Headings. Headings have been inserted herein only as a matter of convenience and for reference, and are not to be considered when construing the provisions of this Agreement.

13.13 Property Descriptions. Where real property or a location is identified in this Agreement or an Appendix hereto by more than one method, i.e., by legal description, parcel number, depiction on a map, and/or textual description, any conflict among these methods of identification shall be resolved by following:

13.13.1 the legal descriptions set forth in the Appendices hereto; if none is provided, then

13.13.2 the textual description in this Agreement; if none is provided, then

13.13.3 depiction on the maps

attached as Appendices 2, 5, 11 and 12 hereto.

13.14 Notices. Where the terms of this Agreement provide that either City will furnish or provide any document or material to the other City, such document or material shall be delivered by hand to the Mayor of the appropriate City, and with respect to the City of Cleveland, the Director of Port Control, with a copy to the Law Director of each City, and shall be deemed to have been received on the date of its delivery to the Mayor's office. If hand delivery is not possible, the document or material shall be sent to the Mayor of the appropriate City by overnight express courier service, and shall be deemed to have been received on the third business day after the date of its receipt by the express courier service.

13.15 Appendices. Appendices 1 through 18 of this Agreement are incorporated herein by reference and made a part hereof.

13.16 Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument.

13.17 Governing Law. This Agreement shall be subject to and governed by the laws of the State of Ohio.

13.18 Severability. If any provision, paragraph, or subparagraph of this Agreement, with the exception of Paragraphs 2.1, 2.2, 3.2, 4.1, 4.2, 5.2, 7.2, 7.3, 8 and 9 is adjudged by any court to be invalid, illegal, or unenforceable in whole or in part, this adjudication will not affect the validity of the remainder of this Agreement, including any other provision, paragraph, or subparagraph. With the exception of Paragraphs 2.1, 2.2, 3.2, 4.1, 4.2, 5.2, 7.2, 7.3, 8 and 9, each provision, paragraph, and subparagraph of this Agreement is separable from every other provision, paragraph, and subparagraph, and constitutes a separate and distinct covenant.

13.19 No Third Party Beneficiary. This Agreement is solely for the benefit of the parties hereto and no third party shall be entitled to claim or enforce any rights hereunder except as specifically provided in this Agreement.

13.20 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest and assigns of Brook Park and of Cleveland.

In witness whereof the Cities have executed this Agreement as of the date first written above.

[SIGNATURE BLOCK FOR
CITY OF BROOK PARK]

[SIGNATURE BLOCK FOR
CITY OF CLEVELAND]

Appendices

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|-------------|--|-------------|--|
| Appendix 4 | Legal Description of Fee Interest Parcels | Appendix 4 | Legal Description of Fee Interest Parcels |
| Appendix 5 | Map of Potential Airport Development Property | Appendix 5 | Map of Potential Airport Development Property |
| Appendix 6 | Form of Property Transfer Ordinance | Appendix 6 | Form of Property Transfer Ordinance |
| Appendix 7 | Legal Description of New Municipal Boundary Line | Appendix 7 | Legal Description of New Municipal Boundary Line |
| Appendix 8 | Form of Deeds for Fee Interest Parcels with Exhibit of Easements in Favor of Cleveland | Appendix 8 | Form of Deeds for Fee Interest Parcels with Exhibit of Easements in Favor of Cleveland |
| Appendix 9 | Design Standards | Appendix 9 | Design Standards |
| Appendix 10 | Form of Restrictive Covenant | Appendix 10 | Form of Restrictive Covenant |
| Appendix 11 | Map Showing Brook Park Sound Insulation Area | Appendix 11 | Map Showing Brook Park Sound Insulation Area |
| Appendix 12 | Map Showing New Route of CEI Power Lines | Appendix 12 | Map Showing New Route of CEI Power Lines |
| Appendix 13 | Pleadings to Stay Lawsuits | Appendix 13 | Pleadings to Stay Lawsuits |
| Appendix 14 | Pleadings for Dismissal of Lawsuits | Appendix 14 | Pleadings for Dismissal of Lawsuits |
| Appendix 15 | Relinquishment and Waiver Agreement | Appendix 15 | Relinquishment and Waiver Agreement |
| Appendix 16 | Form of Legislation Approving Agreement | Appendix 16 | Form of Legislation Approving Agreement |
| Appendix 17 | Form of Letter to ODOT | Appendix 17 | Form of Letter to ODOT |
| Appendix 18 | List of Shared Costs | Appendix 18 | List of Shared Costs |

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, City Planning Commission, Finance, Law; Committees on Port Control, City Planning, Finance.

Ord. No. 204-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of gutter broom sets, 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 gutter broom sets 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 21324)

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. 205-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of traffic cones and safety drums, 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 traffic cones and safety drums 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 21322)

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. 206-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of plow blades and curb bumpers, 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 plow blades and curb bumpers 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 21329)

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. 207-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of cold mix material, 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 cold mix material 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 21326)

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. 208-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of manhole risers, 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 manhole risers 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 21327)

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. 209-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of SSI tack coat, 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 SSI tack coat 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 21319)

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. 210-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of asphalt concrete material, 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 asphalt concrete material 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 21325)

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. 211-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of in-line fuel treatment devices for gasoline and diesel engines, for the Division of Motor Vehicle Maintenance, Department of Public Service.

Whereas, this ordinance constitutes an emergency measure provid-

ing 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 in-line fuel treatment devices for gasoline and diesel engines in the estimated sum of \$150,000.00, 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 21074)

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. 212-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of emulsion, 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 emulsion 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 21328)

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. 213-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of guard rail elements, posts, endwings, 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, endwings, 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 21321)

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. 214-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the procurement by requirement contract of the rental of large capacity trucks with operators, 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 large capacity trucks with operators in the approximate amount as procured during the preceding year, to be procured 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 procurement thereunder, which purchase, together with all subsequent procurements, 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 21330)

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. 215-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of rock salt, for the Division of Streets, Department of Public Service, for a period not to exceed two years.

Whereas, this ordinance constitutes an emergency measure provid-

ing 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 rock salt 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 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 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 two years.

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 21332)

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. 216-97.

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

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at 2209 East 35 Street to Greater Cleveland Habitat for Humanity, Inc.

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 Sec-

tion 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 103-21-105, as more fully described in Section 2 below, to Greater Cleveland Habitat for Humanity, Inc.

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. 103-21-105

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and further described as follows, to-wit:

And known as being Sublot No. 35 in Horace Weddell's Subdivision of a part of Original 10 Acre lots Nos. 64, 65, and 66, as shown by the recorded plat of said subdivision in Volume 2 of Maps, Page 30 of Cuyahoga County Records. Said Sublot No. 35 has a frontage of 40 feet on the Easterly side of East 35th Street, S.E., (formerly Calvert Street), extending back between parallel lines 120 feet, 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. 217-97.

By Councilmen Johnson and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to apply for and accept a grant from the Ohio Department of Education for the 1997 Summer Food Program; authorizing and directing the purchase by requirement contract of breakfasts, lunches and snacks for said Program and for food, food products, beverages, condiments and paper products needed for a food service

operation to be served at Camp George L. Forbes as part of said Program, and for the Division of Recreation, Department of Parks, Recreation and Properties; and authorizing said Director to contract with ten non-profit organizations for the implementation of said 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 Parks, Recreation and Properties is hereby authorized and directed to apply for and accept a grant in the amount of \$175,000.00, from the Ohio Department of Education, to conduct the 1997 Summer Food Program for the purposes set forth in the application and according thereto; that the Director of Parks, Recreation and Properties is hereby authorized to file all papers and execute all documents necessary to receive the funds under said grant, and that said funds be and they hereby are appropriated for the purposes set forth in the application for said grant.

Section 2. That the application for said grant, File No. 217-97-A, made a part hereof as if fully rewritten herein is hereby approved in all respects.

Section 3. That the Director of Parks, Recreation and Properties 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 three months (June, July and August, 1997) for the breakfast, lunch and snack program to be served at not to exceed nineteen City recreation centers and ten non-profit agencies, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Recreation, Department of Parks, Recreation and Properties. 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.

Section 4. 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 21430)

Section 5. That provided the agencies meet the eligibility requirements of the Ohio Department of Education, the Director of the Department of Parks, Recreation and Properties is hereby authorized to make written contracts with the following agencies and such additional agencies as determined by said Director for implementation of the 1997 Summer Food Program:

Calvary Hill COGIC
Community Faith Non-Denominational
Greater Love Baptist Church
Our Lady of Mt. Carmel
Salvation Army
Second Calvary
St. Paul AME
Southwest Community Center
University Church
Youth Opportunities Unlimited

Section 6. That the cost of said contract hereby authorized shall be paid from the funds or funds to which are credited the proceeds of the grant accepted pursuant to Section 1 of this ordinance, Request No. 21430.

Section 7. That the Director of Parks, Recreation and Properties 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 natural foods, food products, beverages, condiments and paper products as set forth in detail on file in the Office of the Division of Purchases and Supplies and attached to Request No. 21431, to be served as part of the meal program at Camp George L. Forbes, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Recreation, Department of Parks, Recreation and Properties. 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.

Section 8. 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 21431)

Section 9. That, notwithstanding the provisions of Section 181.24 of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, bidders for the contracts authorized by Section 3 and 8 of this ordinance shall be required to submit a bid bond in the amount of five percent of the amount of the bid, as required by United States Treasury Circular 570.

Section 10. 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, Finance, Law; Committees on Public Parks, Property and Recreation, Finance.

Ord. No. 218-97.

By Councilmen Patmon, Jackson and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an amendment to Contract No. 41007 between the City of Cleveland and Glenville Plaza Co.

Whereas, pursuant to Ordinance No. 2741-88, Council authorized the Director of Economic Development to enter into loan and/or grant agreements funded by revolving loan fund repayments; and

Whereas, pursuant to said ordinance, the Director of Economic Development entered into City Contract No. 41007 with Glenville Plaza

Co. in the amount of \$34,509.88 for acquisition and relocation costs for the Glenville Plaza Shopping Center; 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 Economic Development is hereby authorized to enter into an amendment to Contract No. 41007 between the City of Cleveland and Glenville Plaza Co., to accept loan prepayment at a discount rate of nine percent (9%) and to include loan prepayment recapture provisions, and City consent for sale of the Glenville Plaza Shopping Center.

Section 2. That the amendment to contract herein authorized shall be prepared by the Director of Law and shall contain such 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 Economic Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 219-97.
By Councilmen Patmon, Jackson and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an amendment to Contract No. 43512 between the City of Cleveland and Glenville Plaza Co.

Whereas, pursuant to Ordinance No. 2645-87, Council authorized the Director of Economic Development to accept an Urban Development Action Grant ("UDAG") in the amount of \$850,000.00 from the United States Department of Housing and Urban Development ("HUD") and to enter into contract with Glenville Plaza Co., an Ohio corporation, or its designee, for acquisition and construction of the Glenville Plaza Shopping Center; and

Whereas, pursuant to said ordinance, the Director of Economic Development entered into City Contract No. 43512 with Glenville Plaza Co., in the amount of \$850,000.00 for acquisition and construction of the Glenville Plaza Shopping Center; 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 Economic Development is hereby authorized to enter into an amendment to Contract No. 43512 between the City of Cleveland and Glenville Plaza Co., to accept loan prepayment at a discount rate of nine percent (9%) and to include loan prepayment recapture provisions, and City consent for sale of the Glenville Shopping Center.

Section 2. That the amendment to Contract No. 43512 shall be prepared by the Director of Law and shall contain such 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 Economic Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 220-97.
By Councilmen Polensek and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of medical supplies, for the Division of Fire, Department of Public Safety, 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 Safety 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 medical supplies 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 Fire, Department of Public Safety. 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 two years.

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 20612)

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 Safety, Finance, Law; Committees on Public Safety, Finance.

Ord. No. 221-97.
By Councilmen Polensek and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of photo supplies, for the Division of Police, Department of Public Safety, 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 Safety 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 photo supplies 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 Police, Department of Public Safety. 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 two years.

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 20109)

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 Safety, Finance, Law; Committees on Public Safety, Finance.

Ord. No. 222-97.
By Councilmen Robinson and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Solid Waste Management District for the 1997 Solid Waste Code Enforcement Program.

Whereas, the Cuyahoga County Board of Commissioners has approved the 1997 Cuyahoga County Solid Waste Management District budget; and

Whereas, that budget contains a line item in the amount of \$109,160.00 for solid waste code enforcement by the City of Cleveland Department of Public Health, Division of Environment; and

Whereas, the Division of Environ-

ment has in previous years applied for and accepted these grant monies in order to provide continuous protection of the public health; and

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

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

Section 1. That the Director of Public Health is hereby authorized to apply for and accept a grant in the estimated amount of \$109,160.00 from the Cuyahoga County Solid Waste Management District, to conduct the 1997 Solid Waste Code Enforcement Program, for the purposes set forth in the application and according thereto; that the Director of Public Health is hereby authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds be and they hereby are appropriated for the purposes set forth in the application for the grant.

Section 2. That the application for the grant, File No. 222-97-A, made a part hereof as if fully rewritten herein, is hereby approved in all respects.

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

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

Ord. No. 223-97.

By Councilmen Smith and Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of fire extinguishing 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 fire extinguishing 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 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 years may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire two years.

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 22565)

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. 224-97.

By Councilmen Smith and Westbrook (by departmental request).

An emergency ordinance determining the method of making the public improvement of installing a fire sprinkler system in the Central Receiving Building at Cleveland Hopkins International Airport, and authorizing the Director of Port Control to enter into contract for the making of such improvement.

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

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

Section 1. That, pursuant to Section 167 of the Charter of the City of Cleveland, it is hereby determined to make the public improvement of installing a fire sprinkler system in the Central Receiving Building at Cleveland Hopkins International Airport, for the Department of Port Control, by contract duly let to the lowest responsible bidder after competitive bidding upon a unit basis for the improvement.

Section 2. That the Director of Port Control is hereby authorized and directed to enter into contract for the making of the above public improvement with the lowest responsible bidder after competitive bidding upon a unit basis for the improvement, provided, however, that each separate trade and each distinct component part of said improvement may be treated as a separate improvement, and each, or any combination, of such trades or components may be the subject of a separate contract upon a unit basis.

Section 3. That the cost of said improvement hereby authorized shall be paid from Fund Nos. 60 SF 104 and 60 SF 106, Request No. 22564.

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 Port Control, Finance, Law; Committees on Aviation and Transportation, Finance.

Ord. No. 225-97.

By Councilman Westbrook (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of paper stock and envelopes, for the Division of Printing and Reproduction, Department of Finance.

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 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 paper stock and envelopes 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 Printing and Reproduction, Department of Finance. 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 23351)

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. 226-97.

By Councilman Westbrook (by departmental request).

An emergency ordinance authorizing and directing a contract on behalf of the Cleveland Municipal Court for professional services necessary to place criminal defendants in community service, for the Cleveland Municipal Court 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 on behalf of the Cleveland Municipal Court, the Director of Finance is hereby authorized and directed to enter into contract with Court Community Service for professional services necessary

to arrange community service for persons the Court refers to Court Community Service, for a period of one year with one (1) option exercisable by the Director of Finance, to renew for an additional one-year term, and cancellable upon thirty days' written notice by said director, on the basis of its proposal dated October 2, 1996, in the total sum of not to exceed \$86,000, payable from Fund No. 01-01-15-0320, Request No. 21814, for the Cleveland Municipal Court.

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 Finance, Law; Committee on Finance.

FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED

Ord. No. 227-97.

By Councilman Paulenske.

An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to Revco to stretch banners on Euclid Avenue at 1900 Euclid Avenue and at East 22nd Street and Euclid Avenue for the period from April 5, 1997 to May 5, 1997, inclusive, publicizing the Revco Marathon and 10K Race.

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

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

Section 1. That notwithstanding the provision of Section 623.13 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Service is hereby authorized and directed to issue a permit to Revco to install, maintain and remove banners on Euclid Avenue at 1900 Euclid Avenue (pole numbers B65-30 and B65-16) and at East 22nd Street and Euclid Avenue (pole numbers B65-19 and BO21-14 and BO21-15) for the period from April 5, 1997 to May 5, 1997, inclusive. Said banners shall be approved by the Director of Public Service, in consultation with the Director of Public Safety, as to type, method of affixing and location so as not to interfere with any sign erected and maintained under the requirements of law or ordinance. The permission of the owner of any pole from which banners will be hung must be obtained prior to issuance of the permit. No commercial advertising shall be printed or permitted on said banners and said banners shall be removed promptly upon the expiration of said permit.

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

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

The rules were suspended. Yeas

19. Nays 0. Read second time. Read third time in full. Passed. Yeas 19. Nays 0.

Ord. No. 228-97.
By Councilmen Paulenske and Britt.

An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to KeyBank to stretch banners on the Cleveland State University walkway on East 22nd Street (north of Euclid Avenue) and on the Cleveland Clinic walkway on Carnegie Avenue near East 96th Street for the period from March 13, 1997 to April 14, 1997, inclusive, publicizing the Diabetes Association's Swim for Diabetes.

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

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

Section 1. That notwithstanding the provision of Section 623.13 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Service is hereby authorized and directed to issue a permit to KeyBank to install, maintain and remove banners on the Cleveland State University walkway on East 22nd Street (north of Euclid Avenue) and on the Cleveland Clinic walkway on Carnegie Avenue near East 96th Street for the period from March 13, 1997 to April 14, 1997, inclusive. Said banner shall be approved by the Director of Public Service, in consultation with the Director of Public Safety, as to type, method of affixing and location so as not to interfere with any sign erected and maintained under the requirements of law or ordinance. The permission of the owner of any pole from which a banner will be hung must be obtained prior to issuance of the permit. No commercial advertising shall be printed or permitted on said banners and said banners shall be removed promptly upon the expiration of said permit.

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

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

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. Passed. Yeas 19. Nays 0.

Ord. No. 229-97.

By Councilmen Paulenske, Smith and Melena.

An emergency ordinance consenting and approving the issuance of a permit for a Marathon and 10K Race on May 4, 1997, sponsored by Revco.

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 a Marathon and 10K

Race, sponsored by Revco, on May 4, 1997, with the Marathon beginning at Cleveland State University, west on Euclid Avenue to East Public Square Drive, north on East Public Square Drive to Superior Avenue, east on Superior Avenue to East 45th Street, north on East 45th Street to St. Clair Avenue, west on St. Clair Avenue to Ontario Street, south on Ontario Street to Carnegie Avenue, west on Carnegie Avenue to the Hope Memorial Bridge, west over the Hope-Memorial Bridge to West 25th Street, north on West 25th Street to Detroit Avenue, west on Detroit Avenue to Lake Avenue, west on Lake Avenue and outside of the City of Cleveland limits into the City of Lakewood and upon returning from Lakewood, go east on Lake Avenue to Detroit Avenue, east on Detroit Avenue to the Veterans Memorial Bridge, east on the Veterans Memorial Bridge to West Public Square Drive, south on West Public Square Drive to Euclid Avenue, east on Euclid Avenue to the finish line at Cleveland State University; and the 10K Race beginning at Cleveland State University, west on Euclid Avenue to East Public Square Drive, north on East Public Square Drive to Superior Avenue, east on Superior Avenue to East 45th Street, north on East 45th Street to St. Clair Avenue, west on St. Clair Avenue to Ontario Street, south on Ontario Street to Euclid Avenue, east on Euclid Avenue to the finish line at Cleveland State University, 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 19. Nays 0. Read second time. Read third time in full. Passed. Yeas 19. Nays 0.

Ord. No. 230-97.

By Councilmen Smith and Paulenske.

An emergency ordinance consenting and approving the issuance of a permit for the 1997 M.S. Walk on April 13, 1997, sponsored by the Multiple Sclerosis Society.

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 1997 M.S. Walk,

sponsored by the Multiple Sclerosis Society, on April 13, 1997, beginning at the Nautica Entertainment Complex in the Flats, exit the complex via Washington Avenue, continue west on Washington (south side) to W. 25th Street, turn left onto W. 25th Street, continue south on W. 25th Street (east side) crossing Superior Viaduct, continue on W. 25th Street to the corner of W. 25th Street and Lorain, turn left onto Lorain Avenue and proceed east over the Lorain-Carnegie Bridge to Ontario St.; at the traffic lights, cross from the west to the east side of Ontario, turn left and continue north on Ontario St. to Huron Road, turn right onto Huron Road and continue east on Huron Road to E. 6th Street, turn right onto E. 6th Street and continue south on E. 6th Street to Eagle Avenue, turn left on Eagle Avenue and continue east on Eagle Avenue to E. 9th Street; at the corner of E. 9th Street and Eagle, turn left, cross from the south to the north side of Eagle and proceed north on E. 9th Street to Bolivar; at traffic light, turn right and cross from the west to the east side of E. 9th Street, turn right and continue south on E. 9th Street to Sumner Court; turn left onto Sumner Court and continue east on Sumner Court to E. 14th Street, turn left on E. 14th Street and continue north on E. 14th Street to Prospect Avenue; turn right at corner of E. 14th Street and Prospect and at traffic light, cross from the west to the east side of E. 14th Street, turn left and at traffic light, cross from the south to the north side of Prospect, turn right and continue east on Prospect to E. 22nd Street; turn left on E. 22nd Street and continue on E. 22nd Street to Euclid Avenue; turn left onto Euclid Avenue, continue west on Euclid Avenue crossing E. 18th Street, E. 17th Street, E. 14th Street, E. 13th Street, E. 12th Street, E. 9th Street and E. 6th Street to Public Square; at the intersection of Public Square and Euclid Avenue, turn right at the traffic light and cross from the south to the north side of Euclid Avenue, turn right onto Public Square (BP Building), continue north on Public Square to Superior; at traffic light, cross from east to west side of Public Square, continue west on Superior to W. 6th Street; at traffic light, cross from the north to south side of Superior, turn right onto W. 6th Street and continue north on W. 6th Street to W. St. Clair, turn right and continue east on W. St. Clair crossing Ontario, E. 6th Street, E. 9th Street, E. 12th Street and E. 13th Street to E. 17th Street; at the corner of E. 17th Street and St. Clair, turn left; at traffic light, cross from south to north side of St. Clair, continue north on E. 17th Street to Lakeside and turn right, cross from west to east side of E. 17th Street and turn left, cross from south to north side of Lakeside, turn left and continue west on Lakeside to E. 9th Street, turn right onto E. 9th Street, continue north on E. 9th Street, cross Erieside Avenue to North Coast Parking Lot, follow circular parking lot (thereby turning around) and proceed south on E. 9th Street, cross Erieside Avenue to Lakeside; at intersection of Lakeside and E. 9th Street, turn right and continue west on Lakeside to W. 3rd Street; at intersection of W. Lakeside and W. 3rd Street, turn left and at traffic light, cross from the north to the south side of W. Lakeside and turn right; at traffic light,

cross from the east to west side of W. 3rd Street, continue west on W. Lakeside to W. 9th Street; turn left and continue south on W. 9th Street to Superior; at the intersection of W. 9th Street and Superior, turn right and at traffic light, cross from east to the west side of W. 9th Street, turn left and at traffic light cross Huron Road from the north to the south side; turn right and continue west over the Detroit-Superior Bridge to W. 25th Street and turn right onto W. 25th Street; at traffic light, cross Old Superior Viaduct and continue north on W. 25th Street to Main, turn right onto Main and continue east on Main to the Nautica Parking Lot, turn right into the parking lot and proceed to the Nautica Entertainment Complex, 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 19. Nays 0. Read second time. Read third time in full. Passed. Yeas 19. Nays 0.

Ord. No. 239-97.

By Councilmen Westbrook, Patton and Polensek.

An emergency ordinance establishing the goals for contracting and hiring in connection with the Cleveland Municipal Stadium Project.

Whereas, on March 8, 1996, this Council passed Ordinance No. 303-96, wherein Section 12 of said ordinance enumerated certain goals for all contracting and hiring in connection with the Cleveland Municipal Stadium Project, which project was authorized pursuant to Ordinance Nos. 303-96, 304-96, 305-96, and 306-96 (the "Stadium legislation"); and

Whereas, since the passage of the Stadium legislation, the Director of the Office of Equal Opportunity of the Office of the Mayor of the City of Cleveland has found and determined that the goals set forth in Ordinance No. 303-96 can not be satisfied fully; and

Whereas, these new goals for the contracting and hiring have been prepared by the Director of the Office of Equal Opportunity and have been submitted to this Council for consideration; 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 anything to the contrary contained in the Codified Ordinances, Cleve-

land, Ohio 1976, or Ordinance No. 303-96, passed March 8, 1996, and based upon the facts and conditions submitted to Council by the Director of the Office of Equal Opportunity and upon the testimony presented to this Council, the Council hereby determines that the following goals for contracting and hiring at the Cleveland Municipal Stadium project as authorized by Ordinance Nos. 303-96, 304-96, 305-96 and 306-97 will apply:

A goal of forty percent (40%) of all construction jobs to be filled by residents of the City of Cleveland; a goal of twenty-five percent (25%) of all construction jobs to be filled by minority persons, as minority person is defined in Chapter 187 of the Codified Ordinances; and a goal of seven and one-half percent (7.5%) to be filled by females.

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 19. Nays 0. Read second time. Read third time in full. Passed. Yeas 19. Nays 0.

FIRST READING EMERGENCY RESOLUTIONS READ IN FULL AND ADOPTED

Res. No. 231-97.

By Councilmen Westbrook and Robinson.

An emergency resolution urging Governor George V. Voinovich to direct the Ohio Department of Human Services to implement the approved waiver of the food stamp cutoff provision in the federal welfare law.

Whereas, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 contains a provision that limits single, childless, unemployed workers to eligibility for food stamp benefits for three months during a three-year period; and

Whereas, Congress added provisions to allow states to apply for a waiver of the provision in areas of high unemployment or insufficient jobs; and

Whereas, the State of Ohio has applied for and received a waiver for areas within the State, including the City of Cleveland, that have been deemed surplus labor areas by the United States Department of Labor; and

Whereas, these surplus labor areas had unemployment rates that exceeded the national average by 20% during the years 1994 and 1995; and

Whereas, without the implementation of the approved waiver, approximately 11,000 Cleveland residents will lose their food stamp benefits within a few weeks; the economic value of these food stamp benefits to Cleveland residents is estimated at \$8 million; and

Whereas, the implementation of the approved waiver will not interfere with the State of Ohio's ability to enforce strict work requirements for food stamp recipients; and

Whereas, the population which

will be affected if the waiver is not implementation is very poor with little or no safety net available to them; nearly half of the persons subjected to the proposed time limit receive no benefits other than food stamps. Forty percent of those affected are women, one-third are over the age of 40, and many are veterans or are homeless; now, therefor,

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

Section 1. That this Council hereby urges Governor George V. Voinovich to direct the Ohio Department of Human Services to implement the waiver of the food stamp cutoff provision in the federal welfare law.

Section 2. That the Clerk of Council is hereby directed to transmit a copy of this resolution to Governor George V. Voinovich and to the Director of the Ohio Department of Human Services.

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 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 232-97.

By Councilman Melena.

An emergency resolution objecting to the stock transfer of a C2, C2X and D6 Liquor Permit to 5910 Detroit Avenue.

Whereas, Council has been notified by the Director of Liquor Control of an application for the stock transfer of a C2, C2X and D6 Liquor Permit to Permit No. 9125555, Two N. Inc., dba Convenient Food Mart 3112, 5910 Detroit Avenue, Cleveland, Ohio 44102; 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 consti-

tutes 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 stock transfer of a C2, C2X and D6 Liquor Permit to Permit No. 9125555, Two N. Inc., dba Convenient Food Mart 3112, 5910 Detroit Avenue, Cleveland, Ohio 44102, 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 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 233-97.

By Councilmen O'Malley, Westbrook, Coats, Patmon and Polensek.

An emergency resolution supporting decent working conditions and fair pay for California strawberry workers and the efforts of the AFL-CIO to increase public awareness of the working conditions of California strawberry workers.

Whereas, there are 20,000 workers in California who supply 70% of the strawberries grown in the United States; and

Whereas, these 20,000 men, women and children typically spend 10 to 12 hours a day in the fields, picking fruits from ankle-level plants, suffering chronic back pain and injuries as well as the dangerous effects of pesticides; and

Whereas, California strawberry workers have not received a pay raise above the poverty level for ten years; and

Whereas, California strawberry workers have few or no benefits, and bad working conditions are common; and

Whereas, the United Farm Workers of America and the AFL-CIO is leading a national public pledge campaign to increase awareness of the working conditions of the California strawberry workers; 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 the Council supports decent working conditions and fair pay for California strawberry workers and the efforts of the AFL-

CIO to increase public awareness of the working conditions of California strawberry workers.

Section 2. That the Clerk of Council be and she is hereby directed to transmit a copy of this resolution to the United Farm Workers of America and the AFL-CIO.

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 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 234-97.

By Councilman Patmon.

An emergency resolution withdrawing objection to the renewal of a C2 and C2X Liquor Permit to 1048 East 76th Street, and repealing Res. No. 1518-95, objecting to said renewal.

Whereas, this Council objected to the renewal of a C2 and C2X Liquor Permit to 1048 East 76th Street by Res. No. 1518-95, adopted August 23, 1995; and

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

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

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

Section 1. That objection to the renewal of a C2 and C2X Liquor Permit to 1048 East 76th Street be and the same is hereby withdrawn and Res. No. 1518-95, containing said objection, be and the same is hereby repealed and that this Council consents to the immediate renewal thereof.

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

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

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 235-97.

By Councilmen Polensek, Gordon, Sweeney and Zone.

An emergency resolution urging WCPN 90.3 FM to continue to support nationality broadcasting on public radio station WCPN.

Whereas, as we close the chapters on our City's Bicentennial, we are cognizant of the great ethnic diversity that has made the City of Cleveland the great city it is today; and

Whereas, keeping this in mind, it is with great concern that I note the resignation of three nationality broadcasters and the cutback in air-

time at public radio station WCPN 90.3 FM;

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

Section 1. That this Council strongly urges public radio station WCPN 90.3 FM to continue to support nationality broadcasting on WCPN and recognize the vital link with other cultures that nationality broadcasting provides the citizens of our community.

Section 2. That the Clerk of Council transmit a copy to Kathryn Jensen, the General Manager of WCPN.

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 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 236-97.

By Councilman Robinson.

An emergency resolution withdrawing objection to the stock transfer of a C1 and C2 Liquor Permit to 4025 East 131st Street, and repealing Res. No. 2064-96, objecting to said stock transfer.

Whereas, this Council objected to the stock transfer of a C1 and C2 Liquor Permit to 4025 East 131st Street by Res. No. 2064-96, adopted November 11, 1996; and

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

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

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

Section 1. That objection to the stock transfer of a C1 and C2 Liquor Permit to 4025 East 131st Street be and the same is hereby withdrawn and Res. No. 2064-96, containing said objection, be and the same is hereby repealed and that this Council consents to the immediate stock transfer thereof.

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

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

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 237-97.

By Councilman Rybka.

An emergency resolution declaring the intention to vacate a portion of Forman Avenue S.E.

Whereas, this Council is satisfied that there is good cause for vacating a portion of Forman Avenue S.E., as hereinafter described, and

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

a municipal department; now, therefore,

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

Section 1. That it hereby declares its intention to vacate:

The following described real property, located in Cleveland, Cuyahoga County, Ohio, and known as:

Being all that portion of FORMAN AVENUE S.E. (40.00 feet wide), from the Northeastly line of Broadway (60.00 feet wide), North-easterly to the Southwesterly line of Aetna Road S.E. (40.00 feet wide).

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 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

Res. No. 238-97.

By Councilman Zone.

An emergency resolution withdrawing objection to the transfer of ownership of a D1 and D2 Liquor Permit to 13720 Lorain Avenue, and repealing Res. No. 2072-96, objecting to said transfer of ownership.

Whereas, this Council objected to the transfer of ownership of a D1 and D2 Liquor Permit to 13720 Lorain Avenue by Res. No. 2072-96, adopted November 18, 1996; 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 D1 and D2 Liquor Permit to 13720 Lorain Avenue be and the same is hereby withdrawn and Res. No. 2072-96, 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 19. Nays 0. Read second time. Read third time in full. Adopted. Yeas 19. Nays 0.

SECOND READING EMERGENCY ORDINANCE PASSED

Ord. No. 1800-96.

By Councilmen Polensek and Rokakis (by departmental request).

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the County Criminal Justice Service Agency for the Cop Youth Crime Action Team Program.

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

1. In the title, at the end, strike the period and insert the following: **“, and to enter into contracts with to implement the program.”.**

2. Insert new Sections 3 and 4 to read, respectively, as follows:

“Section 3. That the Director of Public Safety is hereby authorized to enter into contracts with a Team Administrator, a Law Enforcement Coordinator and a Youth/Gang Crime Analyst necessary to implement the Cop Youth Crime Action Team Program.”.

Section 4. That the Director of Public Safety shall provide quarterly reports regarding this program to the City Council. These reports shall include a listing of all individuals, groups and organizations which have been serviced by this program within each ward.”.

3. Renumber existing Section 3 to new **“Section 5”.**

Amendments agreed to.

The rules were suspended. Yeas 19. Nays 0. Read third time. Passed. Yeas 19. 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. 2123-96.

By Councilman Rokakis (by departmental request).

An emergency ordinance appropriating the funds credited to Fund 10 SF 501 for General Fund purposes.

Approved by Directors of Finance, Law; Recommended by Committee on Finance, when amended as follows:

1. In Section 1, at the end, strike the period and insert the following: **“; provided, however, that all expenditures from Fund 10 SF 501 shall require concurrent authorizing legislation and provided further that any expenditure from Fund 10 SF 501 for purposes other than those specified in Ord. 56-94 shall include in such authorizing legislation a requirement that the Director of Finance execute a certification certifying that an amount equal to the amount of such expenditure will be concurrently transferred into Fund 10 SF 501 from available funds for use for purposes specified in Ord. 56-94.”.**

Amendment agreed to.

The rules were suspended. Yeas 19. Nays 0. Read third time. Passed. Yeas 19. 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. 2192-96.

By Councilmen Coats, Rybka and Rokakis (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 two years and to extend Contract No. 48530 with Kenmore Asphalt Co.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Recommended by Committees on Public Service, Finance, when amended as follows:

1. In title, line 8, delete **“two years”** and insert in lieu thereof **“one year”.**

Amendment agreed to.

The rules were suspended. Yeas 19. Nays 0. Read third time. Passed. Yeas 19. 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. 2204-96.

By Councilmen Polensek and Rokakis (by departmental request).

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the U.S. Department of Justice-Office of Community Oriented Policing Services for the COPS Universal Hiring Program.

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

1. Insert a new Section 2 to read as follows:

"Section 2. That the Director of Public Safety shall provide a monthly report to the City Council regarding the deployment, by platoon or unit within the six police districts, of personnel hired pursuant to this grant."

2. Renumber existing "Section 2" and "Section 3", respectively, to new "Section 3" and "Section 4".

Amendments agreed to.

The rules were suspended. Yeas 19. Nays 0. Read third time. Passed. Yeas 19. 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. 112-97.

By Councilman Britt (by request). An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to The Benjamin Rose Institute to hang banners which will encroach into the right-of-way of Fairhill Road, S.E. and Martin Luther King Jr. Drive for a period of one year.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Relieved of Committee on Public Service; Recommended by Committees on City Planning, Finance.

The rules were suspended. Yeas 19. Nays 0. Read third time. Passed. Yeas 19. Nays 0.

**SECOND READING
ORDINANCE PASSED**

Ord. No. 2131-96.

By Councilman Westbrook. An ordinance to change the Use, Area, and Height Districts of lands on the southwesterly side of Detroit Avenue, N.W. to the center line of the Rapid Transit - N.Y.C., R.R. tracks. (Map Change No. 1922, Sheet No. 1)

Approved by Directors of City Planning Commission, Law; Recommended by Committee on City Planning, when amended as follows:

1. In Section 1, lines 13 and 14, strike "General Retail Business District" and insert in lieu thereof **"Residence Office District"**.

Amendment agreed to.

The rules were suspended. Yeas 19. Nays 0. Read third time. Passed. Yeas 19. 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.

**THIRD READING EMERGENCY
ORDINANCES PASSED**

Ord. No. 1598-96.

By Councilmen Johnson and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of heating, ventilating and air conditioning equipment and supplies, including on-site supplies, including on-site service if necessary, for the Division of Property Management, Department of Parks, Recreation and Properties, for a period of one year.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 1981-96.

By Councilmen Paulenske, Johnson and Rokakis (by departmental request).

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to lease City-owned property located on the southeast corner of Kirtland Park at East 49th Street and South Marginal Road to the Ohio Department of Natural Resources, or their designee, for the purpose of developing, maintaining and operating a Cleveland Civilian Conservation Corp Camp, for a term not to exceed twenty five years.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2033-96.

By Councilmen Patton and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of labor and materials needed to modify and maintain the TracVac residuals collection system at the Garrett A. Morgan Waterworks Facility, for the Division of Water, Department of Public Utilities.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2151-96.

By Councilmen Patton and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of disposal of catch basin debris at a sanitary landfill, for the Division of Water Pollution Control, Department of Public Utilities.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2188-96.

By Councilmen Coats and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the Director of Public Service to enter into contract without competitive bidding with Digital Matrix Services, Inc. for software maintenance for the City's Geographic Information system, for the Division of Engineering and Construction, Department of Public Service.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2191-96.

By Councilmen Coats and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the Director of Public Service to enter into contract without competitive bidding with Data General Corporation for the purchase of computer hardware and operating system maintenance ser-

vices, for the Division of Engineering and Construction, Department of Public Service, for a one year period.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2197-96.

By Councilmen Patton and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the purchase by requirement contract of labor and materials necessary to make hydraulic repairs, for the Division of Water, Department of Public Utilities.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2198-96.

By Councilmen Patton and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the Director of Public Utilities to enter into contract for a maintenance agreement without competitive bidding with BancTec Service Corp. on not to exceed two BancTec payment transaction processors and supporting equipment, for the Division of Fiscal Control, Department of Public Utilities.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2199-96.

By Councilmen Polensek, Patton, Rybka and Rokakis (by departmental request).

An emergency ordinance determining the method of making the public improvement of replacing a storm sewer on Pawnee Avenue, and authorizing the Director of Public Utilities to enter into contract for the making of such improvement.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2200-96.

By Councilmen Patton, Rybka and Rokakis (by departmental request).

An emergency ordinance determining the method of making the public improvement of replacing a combined sewer on Rosewood Avenue, and authorizing the Director of Public Utilities to enter into contract for the making of such improvement.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 2201-96.

By Councilmen Patton, Rybka and Rokakis (by departmental request).

An emergency ordinance determining the method of making the public improvement of replacing a sewer on Rustic Avenue, and authorizing the Director of Public Utilities to enter into contract for the making of such improvement.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 19-97.

By Councilmen Patton and Rokakis (by departmental request).

An emergency ordinance authorizing and directing the purchase by contract of not to exceed thirty six pieces of heavy duty equipment, for the Division of Water, Department of Public Utilities.

Read third time. Passed. Yeas 19. Nays 0.

Ord. No. 120-97.

By Councilman Rokakis (by departmental request).

An emergency ordinance authorizing the Director of Finance, on

behalf of the Clerk of the Cleveland Municipal Court, to apply for and accept a grant from the Cleveland Foundation for the Cleveland Municipal Court Staff Training - Cleveland Foundation Grant; and to enter into contract with D.L. Cummings, Inc. to implement the program.

Read third time. Passed. Yeas 19. Nays 0.

MOTION

By Councilman Coats, seconded by Councilman Polensek and unanimously carried that the absence of Councilman Gary M. Paulenske and Councilman Edward W. Rybka be and is hereby authorized.

MOTION

The Council adjourned at 8:30 p.m. to meet on Monday, February 24, 1997 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

February 5, 1997

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, February 5, 1997, at 11:00 a.m., with Director Sobol Jordan presiding.

Present: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, and Director Lynch.

Absent: Mayor White.

Others: William Moon, Commissioner, Purchases and Supplies, Linda Willis, Director, Office of Equal Opportunity.

On motion, the following resolutions were adopted.

Resolution No. 70-97.

By Director Carmody.

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authority of Ordinance No. 2213-96, passed by the Cleveland City Council on January 15, 1997, DATACORP BUSINESS SYSTEMS INC. is hereby selected upon the nomination of the Director of Finance from a list of qualified consultants, determined after a full and complete canvass by said Director, as a firm to be employed by contract for the purpose of providing professional services necessary to maintain and support the hardware, software, firmware and application software for MITIS computer system.

Be it further resolved that the Director of Finance is hereby authorized to enter into a written contract with DATACORP Business System Inc., based upon its proposal to the City dated August 31, 1996, for a term of one (1) year with two (2)

options, exercisable by the Director of Finance, for a consecutive one (1) year term, which contract shall provide that the compensation to said company shall be \$158 per hour with an extended annual cost of \$328,640, shall be prepared by the Director Law deems necessary to protect and benefit the public interest.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 71-97.

By Director Carmody.

Resolved, by the Board of Control of the City of Cleveland that the bid of T-Group Communications for an estimated quantity of Pre-Sort Mail (All Items) for the Various Divisions of City Government, Department of Finance, for the period of one (1) year beginning with the date of execution of a contract received on the 24th day of January, 1997, pursuant to the authority of Ordinance No. 2225-96, passed December 16, 1996, which on the basis of the estimated quantity would amount to Nine Thousand Nine Hundred and 00/100 Dollars, (\$9,900.00), (2% 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. 091032

which shall be certified against such contract in the sum of Five Hundred Dollars and 00/100 (\$500.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 72-97.

By Director Cunningham.

Whereas, National Hemophilia Foundation wants to promote and conduct the "Heart for Hemophilia Auction" (the "Event") at Burke Lakefront Airport (the "Airport"); and

Whereas, the City is willing to grant to National Hemophilia Foundation permission, privilege and license to promote and conduct the Event at the Airport; now, therefore,

Be it resolved by the Board of Control of the City that pursuant to Section 183.04 of the Codified Ordinances of the Cleveland, Ohio, 1976, the Director, Department of Port Control, hereby is authorized to enter into a Concession Agreement ("Agreement") granting The National Hemophilia Foundation the permission, privilege and license to use the second floor of the Airport terminal building from 6:00 p.m. to

10:00 p.m. on February 8, 1997 to conduct the Event and for such period of time before and after the Event as needed for preparation and clean up. The National Hemophilia Foundation shall pay to the City, as a concession fee, three hundred and fifty dollars (\$350.00); shall arrange for the conduct of the auction as well as for food, alcoholic and non-alcoholic beverage service and such other concessions as are appropriate and incidental to the Event, and shall be responsible for providing traffic control, security, and clean-up.

Be it further resolved that the Agreement shall be prepared by the Director of Law and shall contain such provisions as said Director deems necessary to benefit and protect the public interest.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 73-97.

By Director Konicek.

Whereas, pursuant to the authority of Ordinance No. 1071-93, passed by the Council of the City of Cleveland on June 7, 1993, and Resolution No. 32-94, adopted by the Board of Control on January 19, 1994, the City, through its Director of Public Utilities, entered into an agreement with Clean-Land, Ohio ("Consultant") Contract No. 46971, for project management services necessary for the Cleveland Public Power System Expansion Program; and

Whereas, the City desires to modify the scope of project management services of the Consultant's contract to include an additional planting of 10,000 trees through 1998; and

Whereas, Consultant has proposed by its letter dated August 29, 1996, to provide such additional project management services for an amount not to exceed \$475,246.00; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the Director of Public Utilities is hereby authorized to enter into a modification to Contract No. 46971 with Clean-Land, Ohio for the additional project management services required to complete Cleveland Public Power tree planting project on the basis of the Consultant's August 29, 1996 letter. The compensation for such additional services shall not exceed a total of \$475,246.00, thereby increasing the total compensation payable under Contract No. 46971 to \$1,696,365.00. The modification authorized hereby shall be prepared by the Director of Law and shall include such additional provisions as said Director deems necessary to benefit and protect the public interest.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 74-97.

By Director Konicek.

Be it resolved by the Board of Control of the City of Cleveland that Board of Control Resolution No. 701-96, adopted October 9, 1996, approving the bid of J & S Landscape Co.

for System Expansion Residential Reforestation Fall 1996, item nos. 4A, 6A, 7A and 8A, for the Division of Cleveland Public Power, Department of Public Utilities, is hereby amended by adding the words "Harvey Jordan dba" before J & S Landscape Co.

Be it further resolved that all other provisions of said Resolution No. 701-96 not expressly amended hereby shall remain unchanged and in full force and effect.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 75-97.

By Director Konicek.

Be it resolved, by the Board of Control of the City of Cleveland, that the bid of Nerone & Sons, Inc. for the public improvement of Edgewater Pump Station Replacement for the Division of Water Pollution Control, Department of Public Utilities, received on December 12, 1996, pursuant to the authority of Ordinance No. 1185-96, passed July 17, 1996, upon a unit basis, for the improvement in the aggregate amount of One hundred sixty-seven thousand two hundred and 00/100 Dollars, (\$167,200.00), is hereby affirmed and approved as the lowest responsible bid; and the Director of Public Utilities is hereby authorized to enter into contract for said improvement with said bidder.

Be it further resolved that the employment of the following subcontractors to Nerone & Sons, Inc. for the above-mentioned public improvement hereby is approved:

| SUBCONTRACTORS | WORK |
|---------------------|--------------------------------|
| Cook Paving | Furnish & set pump station MBE |
| Collinwood Concrete | Ready mix concrete FBE |
| Barrow Sign | Project signs FBE |
| Ballast Fence | Fence FBE |

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 76-97.

By Director Konicek.

Be it resolved, by the Board of Control of the City of Cleveland, that the bid of Nerone & Sons, Inc. for the public improvement of Bradley Road Pump Station Renovation for the Division of Water Pollution Control, Department of Public Utilities, received on December 12, 1996, pursuant to the authority of Ordinance No. 1036-92, passed June 15, 1996, upon a unit basis, for the improvement in the aggregate amount of One hundred sixty-two thousand eight hundred and 00/100

Dollars, (\$162,800.00), is hereby affirmed and approved as the lowest responsible bid; and the Director of Public Utilities is hereby authorized to enter into contract for said improvement with said bidder.

Be it further resolved that the employment of the following subcontractors to Nerone & Sons, Inc. for the above-mentioned public improvement hereby is approved:

| SUBCONTRACTORS | WORK |
|---------------------|--------------------------------|
| Cook Paving | Furnish & set pump station MBE |
| Collinwood Concrete | Ready mix concrete FBE |
| Barrow Sign | Project signs FBE |
| Ballast Fence | Fence FBE |

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 77-97.

By Director Konicek.

Be it resolved, by the Board of Control of the City of Cleveland that all bids received on October 4, 1996 for 12KV and 24KV Distribution Transformers, item nos. 248 thru 257 and 261, for the Division of Cleveland Public Power, Department of Public Utilities, pursuant to the authority of Section 129.96 of the Codified Ordinances of Cleveland, Ohio, 1976, are hereby rejected.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 78-97.

By Director Konicek.

Be it resolved, by the Board of Control of the City of Cleveland that all bids received on December 4, 1996, for hauling and disposal of debris at landfills (item 3 only) for the Division of Water, Department of Public Utilities, pursuant to the authority of Ordinance No. 540-96, passed by the Council of the City of Cleveland on May 20, 1996, are hereby rejected.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 79-97.

By Director Konicek.

Be it resolved by the Board of Control of the City of Cleveland that the conditional bid of Interstate Safety and Service Co. for an estimated quantity of hauling and disposal of debris at landfills (item 2 only) for the Division of Water, Department of Public Utilities, for

the period of one (1) year beginning with the date of execution of a contract received on the 4th day of December, 1996, pursuant to the authority of Ordinance No. 540-96, passed May 20, 1996, on the basis of the estimated quantity would amount to Fifty Four Thousand Eight Hundred Dollars, (\$54,800.00), (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 a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 00212 which shall be certified against such contract in the sum of Two Thousand Seven Hundred Forty Dollars, (\$2,740.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 80-97.

By Director Konicek.

Be it resolved by the Board of Control of the City of Cleveland that the conditional bid of Norton Construction Co., dba Norton Environmental for an estimated quantity of hauling and disposal of debris at landfills (item 1 only) for the Division of Water, Department of Public Utilities, for the period of one (1) year beginning with the date of execution of a contract received on the 4th day of December, 1996, pursuant to the authority of Ordinance No. 540-96, passed May 20, 1996, on the basis of the estimated quantity would amount to Forty Five Thousand Dollars, (\$45,000.00), (2% 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 a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 00213 which shall be certified against such contract in the sum of Two Thousand Two Hundred Fifty Dollars, (\$2,250.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.
Absent: None.

Resolution No. 81-97.

By Director Konicek.

Be it resolved by the Board of Control of the City of Cleveland that the conditional bid of Jordan Distributors, Inc. for an estimated quantity of repair air tools (Item 1, A-F; Item 2, A-D; Item 3, parts allowance including \$3,000.00) for the Division of Water, Department of Public Utilities, for the period of one (1) year beginning with the date of execution of a contract received on the 26th day of December, 1996, pursuant to the authority of Ordinance No. 1296-96, passed September 23, 1996, which on the basis of the estimated quantity would amount to Thirty Three Thousand Seven Hundred Dollars, (\$33,700.00), (3% 10 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Utilities is hereby requested to enter into a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 00242

which shall be certified against such contract in the sum of Two Thousand Five Hundred Dollars, (\$2,500.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 82-97.

By Director Guzman.

Resolved by the Board of Control of the City of Cleveland that the bid of AV Technology, LLC for the following: one (1) armored security vehicle (all items) for the Division of Motor Vehicle Maintenance, Department of Public Service, received on the 9th day of January, 1997, pursuant to the authority of Ordinance No. 918-96, passed June 18, 1996, which on the basis of order quantity would amount to \$269,425.00, (1/2% Net 10 Days, Net 30 Days), is hereby approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into contract for such items.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 83-97.

By Director Denihan.

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 181.19 (b), Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby directed to offer to sell to the police officers listed below, at their fair market value, the service revolvers bearing the serial numbers listed to the right of the respective officer's name.

Bell, Eugene, #186 Model Smith & Wesson 6906, Serial #TCA4174

Berry, Johnny D. #698, Model Smith & Wesson 5943, Serial #THA0736

Csongedi, Robert, #9423 Model Smith & Wesson 5943, Serial #TUB0170

Deck, William, #853, Model Smith & Wesson 5943, Serial #TUB0453

Del Regno, Thomas, #873 Model Smith & Wesson 5943, Serial #TVB0433

Futchko, Edward L. #1860 Model Smith & Wesson 5943, Serial #TYR4799

Higgins, John, #1722 Model Smith & Wesson 5943, Serial #TYR6135

Hodous, Ken #2451 Model Smith & Wesson 5943, Serial #TVH5942

Kilbane, Thomas, #2347 Model Smith & Wesson 5943, Serial #TVA6956

Kunz, Gregory, #2410 Model Smith & Wesson 6906, Serial #TCU3967

McDonald, John, #764 Model Smith & Wesson 5943, Serial #TFK5428

Oliver, Albert D. #1860 Model Smith & Wesson 5943, Serial #TYH5994

Schultz, George, #2243 Model Smith & Wesson 5943, Serial #TVB0198

Sminchak, Raymond, #2055 Model Smith & Wesson 5943, Serial #TVB0265

Simsic, John, #1042 Model Smith & Wesson 5943, Serial #TYR6033

Zembala, Richard, #2388, Model Smith & Wesson 5943, Serial #TVA5977

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 84-97.

By Director Denihan.

Resolved by the Board of Control of the City of Cleveland that the conditional bid of Motorola, Inc., except for such terms and conditions as are not acceptable to the Director of Law, for the following: maintenance for radio equipment (all items) for the Division of Emergency Medical Services, Department of Public Safety, received on the 2nd day of January, 1997, pursuant to the authority of Ordinance No. 1192-96, passed September 23, 1996, which on the basis of the order quantities would amount to \$20,076.00, (2% 30 days), is hereby approved as the lowest and best bid, and the Director of Public Safety is hereby requested to enter into contract for such items.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 85-97.

By Director Denihan.

Resolved, by the Board of Control of the City of Cleveland that the bid of Path Master Inc. for an estimated quantity of Traffic Signal Material, items 6, 8, 11, 12, 13, 16, 20, 25, 26, 27, 28, 29, 30, and 33, for the Division of Traffic Engineering and Parking, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract, received on the 21st day of November, 1996, pursuant

to the authority of Ordinance No. 1311-96, passed September 23, 1996, which on the basis of the estimated quantity would amount to One hundred forty six thousand, one hundred seventy seven and no/100 Dollars, (\$146,177.00), (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. 86810

Various items and quantities of Traffic Signal Materials which shall be certified against such contract in the sum of One hundred forty four thousand, one hundred seventeen and no/100 Dollars, (\$144,117.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 86-97.

By Director Denihan.

Resolved, by the Board of Control of the City of Cleveland that the bid of Able Contracting Group, Inc. for an estimated quantity of Traffic Signal Material, items 7 and 9, for the Division of Traffic Engineering and Parking, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract received, on the 21st day of November, 1996, pursuant to the authority of Ordinance No. 1311-96, passed September 23, 1996, which on the basis of the estimated quantity would amount to Forty seven thousand, two hundred fifty and no/100 Dollars, (\$47,250.00), (2% 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. 86808

Various items and quantities of Traffic Signal Materials which shall be certified against such contract in the sum of Forty seven thousand, two hundred fifty and no/100 Dollars, (\$47,250.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

Nays: None.

Absent: None.

Resolution No. 87-97.

By Director Denihan.
 Resolved, by the Board of Control of the City of Cleveland that the bid of Traffic Control Products, Inc. for an estimated quantity of Traffic Signal Material, items 1, 2, 3, 4, 5, 10, 14, 15, 19, and 21, for the Division of Traffic Engineering and Parking, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract, received on the 21st day of November, 1996, pursuant to the authority of Ordinance No. 1311-96, passed September 23, 1996, which on the basis of the estimated quantity would amount to One hundred thirty four thousand, nine hundred twenty two and no/100 Dollars, (\$134,922.00), (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. 86809
 Various items and quantities of Traffic Signal Materials which shall be certified against such contract in the sum of One hundred thirty three thousand, four hundred twenty two and no/100 Dollars, (\$133,422.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.
 Nays: None.
 Absent: None.

Resolution No. 88-97.

By Director Denihan.
 Resolved, by the Board of Control of the City of Cleveland that the bid of Traffic Parts, Inc. for an estimated quantity of Traffic Signal Material, items 17 and 18, for the Division of Traffic Engineering and Parking, Department of Public Service, for the period of one (1) year beginning with the date of execution of a contract, received on the 21st day of November, 1996, pursuant to the authority of Ordinance No. 1311-96, passed September 23, 1996, which on the basis of the estimated quantity would amount to Five thousand ten and no/100 Dollars, (\$5,010.00), (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. 86807
 Various items and quantities of Traffic Signal Materials which shall be certified against such contract in the sum of Five thousand ten and no/100 Dollars, (\$5,010.00).

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: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.
 Nays: None.
 Absent: None.

Resolution No. 89-97.

By Director Spellman.
 Be it resolved by the Board of Control of the City of Cleveland that the bid of EnviroCom Construction Inc., including add Alternate Nos. 1, 5, 6, and 7, for the public improvement of the Mayor's Office Rehabilitation, for the Division of Property Management, Department of Parks, Recreation and Properties, received on January 9, 1997, pursuant to the authority of Ordinance No. 1282-96 passed October 14, 1996, for a gross price for the improvement in the aggregate amount of Six Hundred Eleven Thousand Two Hundred and No/100 Dollars (\$611,200.00), is hereby affirmed and approved as the lowest responsible bid; and the Director of Parks, Recreation and Properties is hereby authorized to enter into contract for said improvement with said bidder.

Be it further resolved, that the employment of the following subcontractors to EnviroCom Construction Inc., is hereby approved:

A & L Sewer Company Inc.
 MBE, 46%

E & J Development Inc.
 MBE, 13%

Commercial Tile & Stone Inc.
 FBE, 4%

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.
 Nays: None.
 Absent: None.

Resolution No. 90-97.

By Director Spellman.
 Be it resolved by the Board of Control of the City of Cleveland, that the bid of R. DiLillo & Co. for the public improvement of Rockefeller Park-Phase IV Site Improvements, for Base Bid items 1, 3, 4, 7, 10-13, including the 3% contingency line items, and items 2.1, 2.4, 8.3, 9.3, 14.5, 15.4, 16.7, and Alternate Bid items D.3, E.6, and H.4, for the Division of Research, Planning and Development, Department of Parks, Recreation and Properties, received on November 8, 1996, pursuant to the authority of Ordinance No. 1284-96 as amended by Ordinance No. 2120-96, passed October 14, 1996 and November 18, 1996 respectively, upon a unit basis, for the improvement in the aggregate amount of Two hundred eighty five thousand, six hundred sixteen and 15/100 (\$285,616.15) Dollars, is hereby affirmed and approved as the lowest responsible bid; and the Director of Parks, Recreation and Properties is hereby authorized to enter into contract for said improvement with said bidder.

Be it further resolved by the Board of Control of the City of

Cleveland that the following subcontractors for R. DiLillo & Co. on the public improvement contract for Rockefeller Park - Phase IV Site Improvements hereby are approved:

SUBCONTRACTORS RESPONSIBILITY

| | |
|------------------|------------------------------------|
| United Ready Mix | Concrete & Related Materials (MBE) |
| Cook Paving | Asphalt (MBE) |
| Alexa Trucking | Trucking (MBE) |
| Barrow Sign | Signage (FBE) |

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.
 Nays: None.
 Absent: None.

Resolution No. 91-97.

By Director Spellman.
 Whereas, pursuant to Ordinance No. 304-96, passed by the Council of the City of Cleveland on May 8, 1996, the Director of Parks, Recreation and Properties was authorized to enter into a contract for marketing services for premium seating at the new football stadium; and

Whereas, pursuant to Board of Control Resolution No. 436-96 adopted June 26, 1996, WRCHOWELL, INC. AND INTERNATIONAL MERCHANDISING CORPORATION, INC. dba CLEVELAND STADIUM MARKETING (collectively referred to as "Consultant"), was selected upon the nomination of the Director of Parks, Recreation and Properties as the firm to be employed by contract for the purpose of marketing the long term leases for private suites and club seats at the new football stadium for the Department of Parks, Recreation and Properties; and

Whereas, the Director of Parks, Recreation and Properties entered into a written contract with Consultant, Contract No. 50026, which contract provides that Consultant shall complete such marketing services no later than January 31, 1997, unless such date is extended by the City;

Now, therefore, be it resolved, by the Board of Control of the City of Cleveland that the Director of Parks, Recreation and Properties is authorized to enter into a first amendment to Contract No. 50026 with WRCHOWELL, INC. AND INTERNATIONAL MERCHANDISING CORPORATION, INC. dba CLEVELAND STADIUM MARKETING to extend the completion date of the services to be rendered under the said contract from January 31, 1997 to February 14, 1997.

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.
 Nays: None.
 Absent: None.

Resolution No. 92-97.

By Director Spellman.

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authority of Ordinance No. 304-96 passed by the Council of the City of Cleveland on March 8, 1996, the firm of COOPERS & LYBRAND, L.L.P. is hereby selected upon the nomination of the Director of Parks, Recreation and Properties from a list of qualified consultants, determined after a canvass by said director, as the firm to be employed by contract for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide accounting and other such professional services as necessary to assist the City in the demolition of the Old Cleveland Municipal Stadium and the design of a new football stadium in conformance with the City's written agreements with other participating parties and with budgetary and scheduling goals for the project.

Be it further resolved that the Director of Parks, Recreation and Properties hereby is authorized to enter into a written contract with COOPERS & LYBRAND, L.L.P. based upon its proposal dated August 16, 1996, as supplemented by its proposals dated September 6, 1996 and January 13, 1997, which contract shall be prepared by the Director of Law, shall contain such additional provisions as the Director of Law deems necessary to protect and benefit the public interest, and shall provide that COOPERS & LYBRAND, L.L.P. shall render such project services for a total fee not exceeding Seven Hundred Thirty-Five Thousand Dollars (\$735,000.00) plus reimbursable expenses allowance of expenses not exceeding twelve percent (12%) of the total fee for a total compensation not exceeding Eight Hundred Twenty-Three Thousand Two Hundred Dollars (\$823,200.00).

Be it further resolved that the employment of the following sub-consultant by COOPERS & LYBRAND, L.L.P. for professional accounting and other similar services for the demolition of the old Cleveland Municipal Stadium and the design and construction of a new football stadium is hereby approved:

DINGUS & DAGA, INC.
(MBE - 30%)

Yeas: Directors Sobol Jordan, Carmody, Konicek, Cunningham, Guzman, Staib, Acting Director Smith, Directors Spellman, Hamilton, Nolan, Acting Director Balraj, Director Lynch.

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 prop-

erly 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, FEBRUARY 24, 1997

9:30 A.M.

Calendar No. 97-17: 1927 E. 70 St.

Debra Cade and Erskine Cade, owners, to erect 527' feet of fencing, being of various heights and types, to partially enclose the 165' x 200' irregular shaped corner lot located in a Multi-Family District on the northeast corner of E. 70 St. and Chester Ave. at 1927 E. 70 St.; portions of said fencing being contrary to the setback and height provisions of Section 357.13 of the Codified Ordinances.

Calendar No. 97-19: 3399 E. 65 St.

John Sklodowski, owner, to erect a 20' x 8' two story frame addition to the rear of the 24' x 45' 6" two story frame two family dwelling house on a 40' x 125' corner lot located in a Local Retail District on the northeast corner of E. 65 St. and Ovington Ave. at 3399 E. 65 St.; said dwelling house being located approximately 1.5' from the north property line and said addition to be approximately 2' from the north property line instead of each being 5' therefrom as required for a corner lot by Section 357.09 and said addition to constitute an expansion contrary to the expansion limitations of Section 359.01 of the Codified Ordinances.

ANTHONY COSTANZO,
Secretary

REPORT OF THE BOARD OF ZONING APPEALS

MONDAY, FEBRUARY 10, 1997

At the Meeting of the Board of Zoning Appeals, on, Monday, February 3, 1997, the following appeals were heard by the Board, and decided on Monday, February 10, 1997.

The following appeal was **Granted:**

Calendar No. 97-2: 322-40 Euclid Avenue

MRN Ltd., owner, c/o Richard Maron, to convert to a total of 50 dwelling units floors two through five and add a partial roof penthouse.

The following appeal was **Refused:**

Calendar No. 96-242: Appeal of Lucky Building Supply Company
Lucky Building Supply Company, c/o Elizabeth Kinney, appealed, under authority of Section 76-6 of the Charter of the City of Cleveland from the refusal on October 11, 1996.

The following appeal was **Postponed:**

Calendar No. 97-7: 16114 St. Clair Ave., N.E. to February 24, 1997.

The following appeals were **Withdrawn:**

Calendar No. 97-3: 5841 Broadway Ave., S.E.

Calendar No. 97-8: 16705 Broadway Ave., S.W.

ANTHONY COSTANZO,
Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

Re: Report of the Meeting of
February 5, 1997

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-164-96.

RE: Appeal of Peter & Jeanne Jackson, Owners of the Property located on the premises known as 13205 Chapelside Avenue from an ADJUDICATION ORDER of the Commissioner of the Division of Building and Housing dated August 20, 1996, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action; the Board will review the information presented.

* * *

Docket A-177-96.

RE: Continuance of Appeal of Geneva Hopson Paige, Owner of the Property located on the premises known as 10302 Buckeye Road from a CONDEMNATION ORDER of the Commissioner of the Division of Building and Housing dated October 6, 1996 and January 9, 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 modify the Commissioner's CONDEMNATION NOTICE and LETTER OF INTENTION TO DEMOLISH by requiring the Appellant to obtain permits for all present and future work involving remodeling of the suites, and for the necessary safety precautions and measures in the common corridor in accordance with the Codified Ordinances of the City of Cleveland within thirty days (30 das.). 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. All other provisions of the

CONDEMNATION NOTICE and LETTER OF INTENT TO DEMOLISH not modified by this decision shall remain in full force and effect, including the provisions that the City may abate the nuisance conditions of the premises by means of demolition if abatement of the violations is not completed by March 19, 1997. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Sullivan.

Yeas: Messrs. Denk, Bowes, Williams, Saunders, Sullivan. Nays: None.

* * *

Docket A-205-96.

RE: Continuance of Appeal of Hanna Lounge Inc. Owner of the Property located on the premises known as 12417-19 Superior Avenue from a CONDEMNATION ORDER of the Commissioner of the Division of Building and Housing dated October 4, 1996, 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 12417-19 Superior Avenue to the Division of Building and Housing for enforcement of the previous resolution (dated November 26, 1996), noting that no action has been taken by the Appellant at this time. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Bowes, Williams, Saunders, Sullivan. Nays: None.

* * *

Docket A-216-96.

RE: Jeannette S. Poole, Owner of the Property located on the premises known as 7205-09 Madison Avenue from a NOTICE OF VIOLATION of the Commissioner of the Division of Building and Housing dated October 23, 1996, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

No action required by the Board at this time, noting that the Commissioner of the Division of Building and Housing has VOIDED the NOTICE OF VIOLATION dated October 13, 1996.

* * *

Docket A-230-96.

RE: Appeal of L.A. Limited Partnership, Owner of the Properties located on the premises known as 3300-3902 C.C. Avenue from a NOTICE OF VIOLATION of the Commissioner of the Division of Building and Housing dated August 19, 1996 (redated December 10, 1996), requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

Docket A-230-96 has been POSTPONED; rescheduled for March 19, 1997.

* * *

Docket A-231-96.

RE: Appeal of Rainbow Terrace Apartments, Inc., Owner of the Properties located on the premises known as 6901-7881 Garden Valley Avenue from a NOTICE OF VIOLATION of the Commissioner of the Division of Building and Housing

dated August 19, 1996 (redated December 10, 1996), requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

Docket A-231-96 has been POSTPONED; rescheduled for March 19, 1997.

* * *

Docket A-233-96.

RE: Appeal of Star Bank, N.A., Mortgagee of the Residential Property located on the premises known as 3533 West 58th Street from a CONDEMNATION ORDER of the Commissioner of the Division of Building and Housing dated November 19, 1996, 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 NOTICE and LETTER OF INTENTION TO DEMOLISH by granting the Appellant three months (3 mos.) in which to transfer the property or obtain permits for abatement of the violations, the property is to remain 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. All other provisions of the CONDEMNATION NOTICE and LETTER OF INTENT TO DEMOLISH not modified by this decision shall remain in full force and effect, including the provisions that the City may abate the nuisance conditions of the premises by means of demolition if abatement of the violations is not completed by May 19, 1997. Motion so in order. Motioned by Mr. Williams and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Bowes, Williams, Saunders, Sullivan. Nays: None.

* * *

Docket A-234-96.

RE: Appeal of GWC, Inc., Owner of the Property located on the premises known as 12825-12911 Taft Avenue from a NOTICE OF VIOLATION of the Chief of the Division of Fire dated September 23, 1996, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

Docket A-234-96 has been POSTPONED; rescheduled for March 19, 1997.

* * *

Docket A-235-96.

RE: Appeal of Grekopfixbun, Owner of the Property located on the premises known as 2550 East 93rd Street from a NOTICE OF VIOLATION of the Chief of the Division of Fire dated November 14, 1996, requiring compliance with the Codified Ordinances of the City of Cleveland, and the Ohio Basic Building Code (OBBC).

Docket A-235-96 has been POSTPONED; rescheduled for March 19, 1997.

Docket A-2-97.

RE: Appeal of Marylene Flint, Owner of the Residential Property and Swimming Pool located on the premises known as 3395 West 56th Street from a NOTICE OF NONCONFORMANCE of the Commissioner of the Division of Building and Housing dated January 3, 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 variance and permit the pool to remain as installed, two feet (2 ft.) from the property line and the concrete building on that property line, and to waive any late filing fee. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Bowes.

Yeas: Messrs. Denk, Bowes, Williams, Saunders, Sullivan. Nays: None.

* * *

Docket A-7-97.

RE: Appeal of Cleveland Public Library, Owner of the Property located on the premises known as 525 Superior Avenue from a NOTICE OF VIOLATION - NEC of the Commissioner of the Division of Building and Housing dated December 31, 1996, 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 and permit the VAV Boxes to remain installed with the modifications recommended by the City Electrical Inspector and to require the following:

- That all remaining VAV boxes that have panels that cannot be opened the full 90 degrees be modified to replace the panel with camlocks to permit removal for access, maintaining the disconnecting feature of the panel.

- That VAV boxes will be clearly labeled indicating that there are 277 volts.

- That VAV boxes where clearance is not adequate, have a sign stating that "CAUTION-CLOSE CLEARANCE RUBBER PADS AVAILABLE".

- That other different contractors provide the owner with rubber pads to insulate the work.

Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Bowes.

Yeas: Messrs. Denk, Bowes, Williams, Saunders, Sullivan. Nays: None.

* * *

OTHER BOARD BUSINESS:

Inspection Services in the City of Cleveland:

BBC&M/Triggs - A division of
BBC&M Engineering, Inc.
GeoTechnical Consultants
33977 Chardon Road
Willoughby Hills, Ohio 44094

A motion is in order at this time to permit BBC&M/Triggs to become an accredited testing agency authorized to provide construction observation and testing for projects within the City of Cleveland. Motion so in order. Motioned by Mr. Sullivan and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Bowes, Williams, Saunders, Sullivan. Nays: None.

APPROVAL OF RESOLUTIONS:

Separate motions were entered by Mr. Williams and seconded by Mr. Sullivan 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-223-96—Doug Deans.
A-226-96—Emma F. Coram.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Not Voting: Mr. Bowes.

Separate motions were entered by Mr. Williams and seconded by Mr. Saunders 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-229-96—Gary and Mary Weinbroer.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Not Voting: Mr. Bowes.

* * *

Separate motions were entered by Mr. Saunders and seconded by Mr. Sullivan 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-236-96—Archie Wynn.
L-1-97—Edward Dougherty, Jr.

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Not Voting: Mr. Bowes.

* * *

APPROVAL OF MINUTES:

Separate motions were entered by Mr. Denk and seconded by Mr. Sullivan for Approval of the Minutes as presented by the Secretary respectively, subject to the Codified Ordinances of the City of Cleveland:

January 22, 1997

Yeas: Messrs. Denk, Williams, Saunders, Sullivan. Nays: None. Not Voting: 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

NONE

CITY OF CLEVELAND BIDS**For All Departments**

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

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

187.10 Negotiated contracts; Notice required in Advertisement for Bids.

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

THURSDAY, FEBRUARY 20, 1997

Various Sewer Maintenance Appurtenances - Castings, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Section 169.27 of the Codified Ordinances of the City of Cleveland, 1976.

February 5 and February 12, 1997

FRIDAY, FEBRUARY 21, 1997

Caterpillar Equipment Parts, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 1928-96, passed by the Council of the City of Cleveland, December 16, 1996.

Reproduction and Mounting Services, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 2210-96.

February 5 and February 12, 1997

WEDNESDAY, FEBRUARY 26, 1997

Lake Road Exterior Maintenance - Metal Siding and Painting, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 424-96, passed by the Council of the City of Cleveland, December 16, 1996.

A MANDATORY PRE-BID MEETING IS SCHEDULED FOR WEDNESDAY, FEBRUARY 19, 1997, 10:00 A.M. AT THE OFFICES OF CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE.

Hauling and Disposal of Water Plant Residuals, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 1936-96, passed by the Council of the City of Cleveland, December 2, 1996.

Rental of Flashers, Safety Lights, Arrow Bars and Traffic Control Devices, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 1456-96, passed by the Council of the City of Cleveland, September 23, 1996.

February 5 and February 12, 1997

WEDNESDAY, MARCH 5, 1997

Cleaning and Cement Mortar Lining of Distribution Water Mains Areas 97-4, 97-5 and 97-6, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 1796-96, passed by the Council of the City of Cleveland, December 16, 1996.

A DEPOSIT OF ONE HUNDRED DOLLARS (\$100.00) CERTIFIED CHECK 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 FIFTEEN (15) DAYS AFTER THE BID OPENING DATE. A PRE-BID MEETING WILL BE HELD ON THURSDAY, FEBRUARY 20, 1997, 10:00 A.M. IN AUDITORIUM A OF THE CARL B. STOKES PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO.

February 5 and February 12, 1997

FRIDAY, MARCH 7, 1997

Cleaning and Cement Mortar Lining of Distribution Water Mains Areas 97-1, 97-2 and 97-3, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 1796-96, passed by the Council of the City of Cleveland, December 16, 1996.

A DEPOSIT OF ONE HUNDRED DOLLARS (\$100.00) CERTIFIED CHECK 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 FIFTEEN (15) DAYS AFTER THE BID OPENING DATE. A PRE-BID MEETING WILL BE HELD ON THURSDAY, FEBRUARY 20, 1997, 10:00 A.M. IN AUDITORIUM A OF THE CARL B. STOKES PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO.

February 5 and February 12, 1997

WEDNESDAY, FEBRUARY 26, 1997

System Expansion Program (Providing and Installing Trees), for the Division of Cleveland Public Power, Department of Public Util-

ities, as authorized by Ordinance No. 1071-93, passed by the Council of the City of Cleveland, June 7, 1993.

Lake Road Exterior Maintenance - Window Repair and/or Replacement, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 424-96, passed by the Council of the City of Cleveland, May 6, 1996.

A PRE-BID MEETING WILL BE HELD ON THURSDAY, FEBRUARY 20, 1997, 10:00 A.M. AT THE OFFICES OF CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE.

February 12 and February 19, 1997

THURSDAY, FEBRUARY 27, 1997

Emergency Sewer Repairs and Installation of New Sewers, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 1607-96, passed by the Council of the City of Cleveland, October 28, 1996.

A DEPOSIT OF FIFTY DOLLARS (\$50.00) CERTIFIED CHECK 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 FIFTEEN (15) DAYS AFTER THE BID OPENING DATE.

February 12 and February 19, 1997

FRIDAY, FEBRUARY 28, 1997

Mower Parts, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 2029-96, passed by the Council of the City of Cleveland, December 16, 1996.

Luke Easter Recreation Center - Dasher Board Installation, for the Division of Architecture, Department of Parks, Recreation and Properties as authorized by Ordinance No. 1455-94, passed by the Council of the City of Cleveland, November 21, 1994.

February 12 and February 19, 1997

WEDNESDAY, MARCH 5, 1997

Lake Road Exterior Maintenance (Masonry Cleaning and Repair), for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 424-96, passed by the Council of the City of Cleveland, May 6, 1996.

A PRE-BID MEETING WILL BE HELD ON WEDNESDAY, FEBRUARY 26, 1997, 10:00 A.M. AT THE OFFICES OF CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE. **ATTENDANCE IS MANDATORY.**

February 12 and February 19, 1997

THURSDAY, MARCH 6, 1997

Building Ventilation Equipment, for the Division of Property Management, Department of Parks, Recreation and Properties as authorized

by Ordinance No. 1028-93, passed by the Council of the City of Cleveland, June 7, 1993.

February 12 and February 19, 1997

WEDNESDAY, MARCH 12, 1997

New Cleveland Browns Stadium Project Insurance, for the Department of Parks, Recreation and Properties as authorized by Ordinance No. 2193-96, passed by the Council of the City of Cleveland.

A PRE-BID MEETING WILL BE HELD ON WEDNESDAY, FEBRUARY 26, 1997, AT 10:00 A.M. IN ROOM 514 OF CLEVELAND CITY HALL, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

February 12 and February 19, 1997

THURSDAY, MARCH 13, 1997

Residential Sound Insulation Program - Phase 2 - Group E, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 930-95, passed by the Council of the City of Cleveland, June 19, 1995.

A DEPOSIT OF ONE HUNDRED DOLLARS (\$100.00) CERTIFIED CHECK 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 FIFTEEN (15) DAYS AFTER THE BID OPENING DATE. A PRE-BID MEETING WILL BE HELD ON FEBRUARY 27, 1997, 10:00 A.M. IN CONCOURSE "B" CONFERENCE ROOM, CLEVELAND HOPKINS PASSENGER TERMINAL BUILDING, CLEVELAND HOPKINS INTERNATIONAL AIRPORT, 5300 RIVERSIDE DRIVE.

February 12 and February 19, 1997

ADOPTED RESOLUTIONS AND ORDINANCES

Res. No. 131-97.

By Councilman Jackson.

An emergency resolution declaring the intention to vacate a portion of East 51st Street.

Whereas, this Council is satisfied that there is good cause for vacating a portion of East 51st Street, as hereinafter described, and

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

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

Section 1. That it hereby declares its intention to vacate: The following described real property, located in Cleveland, Cuyahoga County, Ohio, and known as:

Being all that portion of EAST 51ST STREET (width varies), extending from the Northerly line of Woodland Avenue S.E. (99.00 feet wide), Northerly, to the Southerly line of Ruble Court S.E. (width varies).

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 January 27, 1997.

Effective February 6, 1997.

Res. No. 179-97.

By Councilman Polensek.

An emergency resolution objecting to the transfer of ownership of a C1 and C2 Liquor Permit to 17318 Lake Shore Blvd.

Whereas, Council has been notified by the Director of Liquor Control of an application for the transfer of ownership of a C1 and C2 Liquor Permit from Permit No. 32543435924, Golden Stores Inc., dba Dairy Mart 5924, c/o Gregory Wozniak, 17318 Lake Shore Blvd., Cleveland, Ohio 44119, to Permit No. 1709098, Convenient Express Inc., 17318 Lake Shore Blvd., Cleveland, Ohio 44119; 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 C1 and C2 Liquor Permit from Permit No. 32543435924, Golden Stores Inc., dba Dairy Mart 5924, c/o Gregory Wozniak, 17318 Lake Shore Blvd., Cleveland, Ohio 44119, to Permit No. 1709098, Convenient Express Inc., 17318 Lake Shore Blvd., Cleveland, Ohio 44119, 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.

Adopted February 3, 1997.
Effective February 12, 1997.

Res. No. 180-97.

By Councilman Robinson.

An emergency resolution objecting to the issuance of a C1 Liquor Permit to 11726 Union Avenue.

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. 9796599, Aaron B. Wulu, dba Bolleviere Variety Store, 11726 Union Avenue, 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 issuance of a C1 Liquor Permit to Permit No. 9796599, Aaron B. Wulu, dba Bolleviere Variety Store, 11726 Union Avenue, 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.

Adopted February 3, 1997.
Effective February 12, 1997.

Res. No. 181-97.

By Councilman White.

An emergency resolution objecting to the issuance of a C1 Liquor Permit to 10213 Aetna Road.

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. 5492749, Naretta L. Mann, dba Community Beverage, 10213 Aetna Road, 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 issuance of a C1 Liquor Permit to Permit No. 5492749, Naretta L. Mann, dba Community Beverage, 10213 Aetna Road, 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.

Adopted February 3, 1997.
Effective February 12, 1997.

Ord. No. 1710-96.

By Councilman Rokakis (by departmental request).

An emergency ordinance authorizing the Executive Director of the Community Relations Board to apply for and accept a grant from the Bruening Foundation for Court-watch-The Balance of Justice 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 Executive Director of the Community Relations Board is hereby authorized to apply for and accept a grant in the amount of \$15,000.00, from the Bruening Foundation, to conduct Court-watch-The Balance of Justice Program, for the purposes set forth in the application and according thereto; that the Executive Director of the Community Relations Board is hereby authorized to file all papers and execute all documents necessary to receive the funds under said grant; and that said funds be and they hereby are appropriated for the purposes set forth in the application for said grant.

Section 2. That the application for said grant, File No. 1710-96-A, made a part hereof as if fully rewritten herein, is hereby approved in all respects.

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

Passed February 3, 1997.
Effective February 12, 1997.

Ord. No. 2040-96.

By Councilmen Robinson and Rokakis (by departmental request).

An emergency ordinance to amend the title and Section 3 of Ordinance No. 2016-95, passed December 18, 1995, relating to the 1996-97 All Kids Count Program and to enter into a contract with the Federation for Community Planning.

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

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

Section 1. That the title and Section 3 of Ordinance No. 2016-95, passed December 18, 1995, are hereby amended to read as follows:

An emergency ordinance authorizing the Director of Public Health to

apply for and accept a grant from the Robert Wood Johnson Foundation for the 1996-97 All Kids Count Program and authorizing the Director of Public Health to enter into contracts with Cleveland State University and the Federation for Community Planning for the implementation and operation of the Program.

Section 3. That the Director of Public Health is hereby authorized to enter into contracts with Cleveland State University and the Federation for Community Planning for the implementation and operation of the Program, and that said contracts are payable from the fund or funds to which are credited the grant proceeds accepted pursuant to Section 1 of this ordinance.

Section 2. That the existing title and Section 3 of Ordinance No. 2016-95, passed December 18, 1995, are hereby repealed.

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

Passed February 3, 1997.
Effective February 12, 1997.

Ord. No. 24-97.

By Councilman Coats.

An ordinance to change the Use and Height District of lands on the easterly side of East 124 Street approximately 190' to 302' south of St. Clair Avenue. (Map Change No. 1928, Sheet No. 8)

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

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

Beginning at the intersection of the westerly extension of the southerly line of Sublot No. 15 in the Burrows & Putt Allotment as recorded in Volume 16, Page 29 of the Cuyahoga County Map Records and the center line of East 124 Street; thence northerly along said center line of East 124 Street to its intersection with the westerly extension of the northerly line of Sublot No. 14 in said Burrows & Putt Allotment; thence easterly along said westerly extension and along said northerly line of said Sublot No. 14 to its intersection with a line located one hundred twenty five (125) feet east of the easterly line of East 124 Street; thence southerly along said line which is parallel to and one hundred twenty five (125) feet east of said easterly line of East 124 Street to its intersection with said southerly line of said Sublot No. 15; thence westerly along said southerly line of said Sublot No. 15 and along its westerly 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 Local Retail Use District and a '2' Height District.

Section 2. That said changed designation of lands described in Section 1 shall be identified as Map Change No. 1928, Sheet No. 8 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.

Passed February 3, 1997.
Effective March 15, 1997.

Ord. No. 45-97.

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

An emergency ordinance authorizing the Director of Economic Development to enter into an Enterprise Zone Agreement with Ohio City Development, Ltd. or its designee, to provide for a ten (10) year abatement for certain tangible personal property and real estate taxes as an incentive to construct a Dave's Supermarket in the Ohio City neighborhood 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, Ohio City Development, Ltd. (the "Enterprise") has proposed to construct a Dave's Supermarket in Ohio City; 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 Ohio City Development, Ltd., or its designee(s), for enterprise zone incentives on the basis that Ohio City Development, Ltd. 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 Ohio City Development, Ltd., or its designee(s), to construct a Dave's Supermarket in the Ohio City neighborhood, 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 accor-

dance with the term as set forth in the Executive Summary contained in File No. 45-97-A.

Section 4. 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 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.

Passed February 3, 1997.
Effective February 12, 1997.

Ord. No. 128-97.

By Councilman Patmon.

An emergency ordinance to amend Sections 667.05 and 667.99, as enacted and amended by Ordinance No. 272-96, passed December 16, 1996, relating to discrimination and the penalty therefor.

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

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

Section 1. That Sections 667.05 and 667.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted and amended, respectively, by Ordinance No. 272-96, passed December 16, 1996, are hereby amended to read, respectively, as follows:

Section 667.05 Unlawful Discrimination in Employment

(a) No person shall refuse to employ or to bar or to discharge from employment any person because of race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group or Vietnam-era or disabled veteran status of such person.

(b) No person shall refuse to promote or grant any condition or privilege of employment because of race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group or Vietnam-era or disabled veteran status of such person.

(c) As used in this section, "person" means an individual, corporation, business trust, estate, trust, partnership, labor organization and association.

(d) As used in this section, "labor organization" means any organization which exists and is constructed for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms and conditions of employment, or of other mutual aid or protection in connection with employment.

(e) In accordance with the Religious Freedom Restoration Act, 42 U.S.C. 2000bb et seq., and other state and federal laws, nothing in this ordinance shall be construed to infringe the free exercise of religious rights under the First Amendment to the United States Constitution, nor shall the ordinance be construed to affect bona fide occupational qualifications based upon religion for employment.

Section 667.99 Penalty

(a) Whoever violates any of the provisions of Section 667.05 shall be guilty of a misdemeanor of the first degree and shall be fined not less than one thousand dollars (\$1,000.00), or sentenced to not less than three (3) months imprisonment, or both. The minimum fine and imprisonment to be imposed by a court for a violation of Section 667.05 is mandatory and may not be suspended in whole or in part.

(b) Whoever violates any other provision of this chapter shall be fined not more than one thousand dollars (\$1,000.00) and imprisoned for not more than thirty days.

Section 2. That existing Section 667.05 and 667.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted and amended, respectively, by Ordinance No. 272-96, passed December 16, 1996, are hereby repealed.

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

Passed January 27, 1997.

Effective February 6 1997.

Ord. No. 176-97.

By Councilmen Coats and Westbrook (by departmental request).

An emergency ordinance authorizing the Director of Public Service to cause payment of the City of Cleveland's share to the State of Ohio for the cost of repair and rehabilitation of the Prospect Avenue, Huron Road, West 2nd Street, West 3rd Street and West 6th Street viaducts.

Whereas, in Ordinance No. 2435-92, passed July 14, 1993, this Council gave consent to the Director of Transportation, State of Ohio, for the cost of repair and rehabilitation of the Prospect Avenue, Huron Road, West 2nd Street, West 3rd Street and West 6th Street viaducts (the "Improvement"); and

Whereas, this Council authorized the City to cooperate with the State of Ohio in the cost of the Improvement; and

Whereas, the City's share of the cost of the Improvement is currently estimated to be \$863,894.00; and

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

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

Section 1. That this Council hereby authorizes payment to the State of Ohio of the City's share of the cost of repair and rehabilitation of the Prospect Avenue, Huron Road, West 2nd Street, West 3rd Street and West 6th Street viaducts from Fund Nos. 20 SF 883, 20 SF 302, 20 SF 334 and 20 SF 322, Request No. 21928.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it

shall take effect and be in force from and after the earliest period allowed by law.

Passed February 3, 1997.

Effective February 6, 1997.

Ord. No. 177-97.

By Councilman Paulenske.

An emergency ordinance consenting and approving the issuance of a permit for the 9th Annual Walk-A-Thon on May 10, 1997, sponsored by the Hunger Network of Greater Cleveland.

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

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

Section 1. That pursuant to Section 411.06 of the Codified Ordinances of Cleveland, Ohio, 1976, this Council consents to and approves the holding of a Walk-A-Thon, sponsored by the Hunger Network of Greater Cleveland, on May 10, 1997, beginning at Burke Lakefront Airport, exit the parking lot and proceed west onto North Marginal Road, cross E. 9th Street and go northwest on Erieside Avenue and around the former Cleveland Municipal Stadium, then go south on W. 3rd Street to St. Clair Avenue, head west on St. Clair Avenue then south on W. 9th Street, continue southeast onto Huron Road and stay on Huron Road until E. 13th Street, then go west onto Euclid Avenue, continue west on Euclid Avenue and go north at Public Square on Mall Drive, continue on Mall Drive until Lakeside Avenue, where walkers will head east until they reach E. 9th Street, continue north on E. 9th Street until they reach Bicentennial Park, where the walk will finish, provided that the applicant sponsor shall meet all the requirements of Section 411.05 of the Codified Ordinances of Cleveland, Ohio, 1976. Streets may be closed as determined by the Chief of Police 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.

Passed February 3, 1997.

Effective February 12, 1997.

Ord. No. 178-97.

By Councilman Patmon.

An emergency ordinance authorizing certain persons to engage in peddling in Ward 8. (Maria Skantzos — 7300 St. Clair Avenue).

Whereas, pursuant to Section 675.07 of the Codified Ordinances of Cleveland, Ohio, 1976, (the "Codified Ordinances") the consent of Council, expressed by ordinance, is a prerequisite to peddle upon public rights of way outside of the Central Business District; and

Whereas, this Council has considered the requests of certain persons

to engage in peddling outside of the Central Business District, and has determined that it is in the public interest to allow each of said persons to peddle in Ward 8; and

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

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

Section 1. That this Council consents, as required by Section 675.07 of the Codified Ordinances, to allow each person named below to engage in peddling in the public rights of way of Ward 8, at the locations specified: 7300 St. Clair Avenue.

Section 2. That all of the requirements of Chapter 675 of the Codified Ordinances shall apply to the persons named in Section 1 of this ordinance.

Section 3. That the privilege granted herein may be revoked at any time by this Council.

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 February 3, 1997.

Effective February 12, 1997 without the signature of the Mayor.

COUNCIL COMMITTEE MEETINGS

Monday, February 10, 1997

Public Parks, Property and Recreation Committee: 9:30 A.M. — Present: Johnson, Chrm.; Rybka, Vice-Chrm.; Sweeney, White. Excused: Patton, Paulenske.

City Planning Committee (Zoning): 12:30 P.M. — Present: Rybka, Chrm.; Britt, Vice Chrm.; O'Malley, Gordon, White, Zone. Excused: Paulenske.

City Planning Committee: 12:30 P.M. — Present: Rybka, Chrm.; Britt, Vice Chrm.; O'Malley, Gordon, White, Zone. Excused: Paulenske.

Finance Committee: 2:00 P.M. — Present: Westbrook, Chrm.; Polensek, Vice Chrm.; Britt, Coats, Johnson, Lewis, Patmon, Robinson, Rybka, Smith. Excused: Paulenske.

Tuesday, February 11, 1997

Community and Economic Development Committee (Tour): 10:00 A.M. — Present: Jackson, Chrm.; Britt, Lewis, Melena, Smith. Excused: Paulenske, Vice-Chrm.; Coats, Patton, Willis.

Wednesday, February 12, 1997

City Planning Committee: 12:30 P.M. — Present: Rybka, Chrm.; Britt, Vice Chrm.; Paulenske, Gordon, White, Zone. Excused: O'Malley.

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