

The City Record

Official Publication of the Council of the City of Cleveland



April the Twentieth, Two Thousand and Five

Jane L. Campbell
Mayor

Frank G. Jackson
President of Council

Valarie J. McCall
City Clerk, Clerk of Council

| Ward | Name |
|------|---------------------|
| 1 | Joseph T. Jones |
| 2 | Robert J. White |
| 3 | Zachary Reed |
| 4 | Kenneth L. Johnson |
| 5 | Frank G. Jackson |
| 6 | Patricia J. Britt |
| 7 | Fannie M. Lewis |
| 8 | Sabra Pierce Scott |
| 9 | Kevin Conwell |
| 10 | Roosevelt Coats |
| 11 | Michael D. Polensek |
| 12 | Edward W. Rybka |
| 13 | Joe Cimperman |
| 14 | Nelson Cintron, Jr. |
| 15 | Merle R. Gordon |
| 16 | Kevin J. Kelley |
| 17 | Matthew Zone |
| 18 | Jay Westbrook |
| 19 | Dona Brady |
| 20 | Martin J. Sweeney |
| 21 | Michael A. Dolan |

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Frank G. Jackson

| Ward | Name | Residence | |
|------|---------------------|------------------------|-------|
| 1 | Joseph T. Jones | 4691 East 177th Street | 44128 |
| 2 | Robert J. White | 9703 Cardwell Avenue | 44105 |
| 3 | Zachary Reed | 3734 East 149th Street | 44120 |
| 4 | Kenneth L. Johnson | 2948 Hampton Road | 44120 |
| 5 | 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 | Sabra Pierce Scott | 9212 Kempton Avenue | 44108 |
| 9 | Kevin Conwell | 10647 Ashbury Avenue | 44106 |
| 10 | Roosevelt Coats | 1775 Cliffview Road | 44112 |
| 11 | Michael D. Polensek | 17855 Brian Avenue | 44119 |
| 12 | Edward W. Rybka | 6832 Indiana Avenue | 44105 |
| 13 | Joe Cimperman | 3053 West 12th Street | 44113 |
| 14 | Nelson Cintron, Jr. | 3004 Vega Avenue | 44113 |
| 15 | Merle R. Gordon | 1700 Denison Avenue | 44109 |
| 16 | Kevin J. Kelley | | |
| 17 | Matthew Zone | 1228 West 69th Street | 44102 |
| 18 | Jay Westbrook | 1278 West 103rd Street | 44102 |
| 19 | Dona Brady | 1272 West Boulevard | 44102 |
| 20 | Merle J. Sweeney | 3632 West 133rd Street | 44111 |
| 21 | Michael A. Dolan | 16519 West Park Road | 44111 |

City Clerk, Clerk of Council – Valarie J. McCall, 216 City Hall, 664-2840
First Assistant Clerk – Sandra Franklin

MAYOR – Jane L. Campbell

Christopher S. Ronayne, Chief of Staff
Darnell Brown, Chief Operating Officer
Craig Tame, Executive Assistant
Collette J. Appolito, Director, Office of Equal Opportunity
Margreat A. Jackson, Legislative Affairs Liaison
Erik Janas, Inter-Governmental Affairs Officer
Lorna Wisham, Chief Public Affairs Officer

DEPT. OF LAW – Teresa M. Beasley, Director, Richard F. Horvath, Chief Counsel, Rm. 106
Karen E. Martines, Law Librarian, Room 100

DEPT. OF FINANCE – Robert H. Baker, Director, Room 104;
Frank Badalamenti, Manager, Internal Audit

DIVISIONS: Accounts – Alan Schneider, Commissioner, Room 19
Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122
City Treasury – Algeron Walker, Treasurer, Room 115
Financial Reporting and Control – James Gentile, Controller, Room 18
Information Technology and Services – Douglas Divish, Commissioner, 1404 East 9th Street
Purchases and Supplies – James E. Hardy, Commissioner, Room 128
Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue
Taxation – Nassim Lynch, Tax Administrator, 1701 Lakeside Avenue

DEPT. OF PUBLIC UTILITIES – Julius Ciaccia, Director, 1201 Lakeside Avenue

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

DEPT. OF PORT CONTROL – John C. Mok, Director
Cleveland Hopkins International Airport, 5300 Riverside Drive
Burke Lakefront Airport – Khalid Bahhur, Commissioner
Cleveland Hopkins International Airport – Fred Szabo, Commissioner

DEPT. OF PUBLIC SERVICE – Mark Ricchiuto, Director, Room 113

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

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

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

DEPT. OF PUBLIC SAFETY – Sanford E. Watson, Director, Room 230

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

DEPT. OF PARKS, RECREATION & PROPERTIES – Natalie A. Ronayne, Director

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

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

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

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Gina Routen, Director, Room 121

DEPT. OF ECONOMIC DEVELOPMENT – Gregory G. Huth, Director, Room 210

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

DEPT. OF CONSUMER AFFAIRS – Kenya Taylor, Director

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

CIVIL SERVICE COMMISSION – Room 119, Reynaldo Galindo, President; Rev. Earl Preston, Vice President; Jonalyn M. Krupka, Secretary; Members: Diane M. Downing, William Morrison.

SINKING FUND COMMISSION – Jane L. Campbell, President; Council President Frank G. Jackson; Betsy Hruby, Asst. Sec'y.; Robert H. Baker, Director.

BOARD OF ZONING APPEALS – Room 516, Carol A. Johnson, Chairman; Members: Margaret Hopkins, Ozell Dobbins, Joan Shaver Washington, Tim Donovan, _____, Secretary.

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

BOARD OF REVISION OF ASSESSMENTS – Law Director Teresa M. Beasley, President; Finance Director Robert H. Baker, Secretary; Council President Frank G. Jackson.

BOARD OF SIDEWALK APPEALS – Service Director Mark Ricchiuto; Law Director Teresa M. Beasley; Councilman Martin J. Sweeney.

BOARD OF REVIEW – (Municipal Income Tax) – Law Director Teresa M. Beasley; Utilities Director Julius Ciaccia; Council President Frank G. Jackson.

CITY AUDIT COMMITTEE – Robert Rawson, Chairman; Bracey Lewis, Frank Jackson, Stephen J. Strinisha, Teresa Beasley, Yvette M. Ittu.

CITY PLANNING COMMISSION – Room 501 – Robert N. Brown, Director; Anthony J. Coyne, Chairman; David Bowen, Lillian W. Burke, Lawrence A. Lumpkin, Gloria Jean Pinkney, Rev. Sam Edward Small, Councilman Joseph Cimperman.

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

HOUSING ADVISORY BOARD – Room 310 – Keith Brown, Terri Hamilton Brown, Vickie Eaton-Johnson, Mike Foley, Eric Hodderson, Janet Loehr, Mark McDermott, Marcia Nolan, David Perkowski, Joan Shaver Washington, Keith Sutton, Council Member Merle Gordon.

FAIR HOUSING BOARD – Charles See, Chair; Cindy Barber, Vice Chair; Michael Doud, Doris Housa, Richard Lenard.

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

MORAL CLAIMS COMMISSION – Law Director Teresa M. Beasley; Chairman; Finance Director Robert H. Baker; Council President Frank G. Jackson; Councilman Dona Brady; Councilman Martin J. Sweeney.

BOARD OF EXAMINERS OF ELECTRICIANS – Samuel Montfort, Chairman; Donald Baulknlight, Anton J. Eichmuller, J. Gilbert Steele, Raymond Ossovicki, Chief Electrical Inspector; Laszlo V. Kemes, Secretary to the Board.

BOARD OF EXAMINERS OF PLUMBERS – Joseph Gyorky, Chairman; Earl S. Bumgarner, Alfred Fowler, Jozef Valencik, Lawrence Skule, Chief Plumbing Inspector; Laszlo V. Kemes, Secretary to the Board.

CLEVELAND LANDMARKS COMMISSION – Room 519 – James D. Gibans, Chair; Randall B. Shorr, Vice Chair; Kevin Dreyfuss-Wells, India Pierce Lee, Laura M. Noble, Robert N. Brown, N. Kurt Wiebusch, Council Member Joe Cimperman, Robert Jackimowicz; Robert Keiser, Secretary.

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

| Judge | Courtroom |
|---------------------------------------------------|-----------|
| Presiding and Administrative Judge Larry A. Jones | 14B |
| Judge Ronald B. Adrine | 15A |
| Judge Emanuella Groves | 13A |
| Judge Mabel M. Jasper | 14D |
| Judge Kathleen Ann Keough | 13D |
| Judge Anita Laster Mays | 14C |
| Judge Lauren C. Moore | 12B |
| Judge Raymond L. Pianka (Housing Court Judge) | 13B |
| Judge Angela R. Stokes | 15C |
| Judge Joan Syneberg | 12A |
| Judge Pauline H. Tarver | 12C |
| Judge Robert J. Triozzi | 14A |
| Judge Joseph J. Zone | 13C |

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

The City Record



OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

Vol. 92

WEDNESDAY, APRIL 20, 2005

No. 4767

CITY COUNCIL

MONDAY, APRIL 18, 2005

The City Record

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Address all communications to

VALARIE J. McCALL

City Clerk, Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL

2002-2005

MONDAY

9:30 A.M. — **Public Parks, Property & Recreation Committee:** Johnson, Chairman; White, Vice Chairman; Cimperman, Dolan, Jones, Rybka, Sweeney.

MONDAY—Alternating

11:00 A.M. — **Public Service Committee:** Sweeney, Chairman; Jones, Vice Chairman; Brady, Cimperman, Johnson, Kelley, Polensek, White, Zone.

11:00 A.M. — **Employment, Affirmative Action & Training Committee:** Lewis, Chairman; Conwell, Vice Chairman; Cintron, Coats, Johnson, Reed, Polensek.

MONDAY

2:00 P.M. — **Finance Committee:** Jackson, Chairman; Sweeney, Vice Chairman; Brady, Britt, Cimperman, Coats, Gordon, Reed, Pierce Scott, Westbrook, White.

TUESDAY

9:30 A.M. — **Community and Economic Development Committee:** Gordon, Chairman; Cimperman, Vice Chairman; Cintron, Coats, Jones, Lewis, Reed, Pierce Scott, Zone.

TUESDAY—Alternating

1:00 P.M. — **Health & Human Services Committee:** Britt, Chairman; Zone, Vice Chairman; Cintron, Conwell, Gordon, Pierce Scott, Polensek.

1:30 P.M. — **Legislation Committee:** White, Chairman; Pierce Scott, Vice Chairman; Dolan, Gordon, Johnson, Rybka, Westbrook.

WEDNESDAY—Alternating

10:00 A.M.—**Aviation & Transportation Committee:** Westbrook, Chairman; Sweeney, Vice Chairman; Britt, Dolan, Gordon, Reed, Rybka.

10:00 A.M. — **Public Safety Committee:** Reed, Chairman; Britt, Vice Chairman; Brady, Coats, Conwell, Jones, Kelley, White, Zone.

WEDNESDAY—Alternating

1:30 P.M. — **Public Utilities Committee:** Coats, Chairman; Brady, Vice Chairman; Cintron, Jones, Kelley, Polensek, Sweeney, Westbrook, Zone.

1:30 P.M. — **City Planning Committee:** Cimperman, Chairman; Rybka, Vice Chairman, Conwell, Kelley, Lewis, Pierce Scott, Westbrook.

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

Rules Committee: Jackson, Chairman; Reed, Sweeney, Westbrook.

Personnel and Operations Committee: Gordon, Chairman; Britt, Cimperman, Coats, Pierce Scott.

Mayor's Appointment Committee: Coats, Chairman; Cintron, Reed, Pierce Scott, Westbrook.

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio

Monday, April 18, 2005

The meeting of the Council was called to order, The President, Frank G. Jackson, in the Chair.

Council Members present: Brady, Britt, Cimperman, Cintron, Coats, Conwell, Gordon, Johnson, Lewis, Pierce Scott, Polensek, Reed, Rybka, Sweeney, Westbrook, White and Zone.

Also present were Mayor Campbell, Chief Operating Officer Brown and Chief of Staff Ronayne and Directors Beasley, Baker, Ciaccia, Mok, Ricchiuto, Carroll, Watson, Ronayne, Rush, Williams, Routen, Huth, Fumich, Taylor, Johnson, Appolito, Brown, Johnson, and Margaret Jackson, Legislative Liaison.

Pursuant to Ordinance No. 2926-76, prayer was offered by Father James O'Donnell of Little Brothers and Sisters of the Eucharist, located at 2182 East 35th Street in Ward 5. Pledge of Allegiance.

MOTION

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

COMMUNICATION

File No. 730-05.

April 15, 2005

Frank Jackson, Council President
Valarie McCall, Council Clerk
And All Members of Cleveland
City Council
601 Lakeside Avenue, Room 216
Cleveland, Ohio 44114

Dear Frank, Valarie and Colleagues;

After a great deal of deliberation, I have made the decision to resign from Cleveland City Council on Monday, April 18, 2005, effective at 5:00 p.m.

I would request the Democratic caucus to consider the appointment of Ward 16 resident Kevin J. Kelley to complete my term. He will be an asset to this distinguished body and loyal to the legislative branch.

I extend my personal thanks to each of you for your friendship and support over the many years. It has been my honor to serve with you.

Sincerely,
Michael C. O'Malley
Ward 16 Councilman

Received.

ELECTION TO FILL VACANCY IN WARD 16

The Clerk of Council read a letter of resignation from Council Member Michael C. O'Malley of Ward 16. The President of Council accepted the resignation and declared a vacancy in Ward 16. Council Majority Leader Martin J. Sweeney nominated Kevin J. Kelley to serve as Council Member representing Ward 16. Council Member Zachary Reed seconded the nomination. Without objection, the nominations were closed.

Thereupon, the President of Council instructed the members of Council to state the name of the candidate when responding to the roll call, and requested the Clerk to call the roll upon the election of the Council Member of Ward 16. Upon completion of the roll call, the Clerk announced that Kevin J. Kelley received 18 votes. Those who voted

for Mr. Kelley were Council Members: Jackson, Brady, Britt, Cimperman, Cintron, Coats, Conwell, Gordon, Johnson, Lewis, Pierce Scott, Polensek, Reed, Rybka, Sweeney, Westbrook, White, and Zone. Absent: Council Members Dolan and Jones.

The Chair declared Kevin J. Kelley, having received the unanimous vote of all the members elected to Council to be the duly elected Council Member of Ward 16. The President requested Council Members Sweeney, Reed, Britt, Brady, and White to escort the duly elected Member of Council to the podium to have the oath of office administered by Former Member of Council, Michael C. O'Malley.

Council Member Kelley took his seat in the Council Chambers and thanked his family, friends and constituents and then assumed the duties of the Council, representing, Ward 16.

File No. 739-05.

OATH OF OFFICE, WARD 16

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

I, **KEVIN J. KELLEY**, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Ohio, and the Charter of the City of Cleveland, and that I will faithfully, honestly, and impartially discharge the duties of the office of **WARD 16 REPRESENTATIVE OF CLEVELAND CITY COUNCIL**, of the City of Cleveland, State of Ohio, during my continuance in said office.

KEVIN J. KELLEY

Sworn before me and subscribed in my presence this 18th day of April, 2005.

REBECCA K. SCHALTENBRAND
Notary Public, State of Ohio
My Commission Has No Expiration Date
Ohio Revised Code Section 147.03

Received.

COMMUNICATIONS

File No. 2374-04-C.

Response from property owners to Resolution No. 2374-04 assessment notice — David W. Swetland Building Co. LTD & Kenneth J. Fisher Co., L.P.A. Received.

File No. 731-05.

From the Office of Equal Opportunity — Certified MBEs and FBEs, Reporting Period: First Quarter, 2005. Received.

File No. 732-05.

From the Office of Equal Opportunity — MBE/FBE Deletions from OEO's Database, First Quarter 2005. Received.

File No. 733-05.

From the Office of Equal Opportunity — Denials of Certification — First Quarter, 2005. Received.

FROM DEPARTMENT OF LIQUOR CONTROL

File No. 734-05.

Re: Transfer of Ownership Application — 5284436 — Look Out, Inc., d.b.a. Sheehan's Pub, 13560 Lorain Avenue. (Ward 20). Received.

File No. 735-05.

Re: New Application — 19449310050 — Dave's Supermarket, Inc., d.b.a. Daves Shaker Square, 13130 Shaker Square. (Ward 4). Received.

File No. 736-05.

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

File No. 737-05.

Re: New Application — 0084375 — AJS Enterprises, Inc., d.b.a. Hill Top Deli, 2623 Woodhill Road. (Ward 6). Received.

File No. 738-05.

Re: Transfer of Ownership Application — 5420035 — M. A. G. E. Management LLC, d.b.a. Markos, 4457 Broadview Road. (Ward 15). Received.

CONDOLENCE RESOLUTIONS

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

Res. No. 741-05—John F. Dolan, Jr.

Res. No. 742-05—Emmett Lee Hill.

Res. No. 743-05 — Carlos Enrique Canaztuj.

Res. No. 744-05 — Margaret Elizabeth Means.

CONGRATULATION RESOLUTIONS

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

Res. No. 745-05—Earth Day Coalition.

Res. No. 746-05 — James & Elizabeth Newman.

Res. No. 747-05—Capital University's Cleveland Center for Lifelong Learning.

Res. No. 748-05—Bobbi Reichtell.

RECOGNITION RESOLUTIONS

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

Res. No. 749-05—Imam Clyde Rahman.

Res. No. 750-05—Lester Fultz.

Res. No. 751-05—The River's Edge.

FIRST READING EMERGENCY ORDINANCES REFERRED

Ord. No. 695-05.

By Mayor Campbell.

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 605.031 relating to aggressive solicitation.

Whereas, this Council believes that persons should be able to move freely upon the streets and sidewalks of the City without undue interference or exposure to intimidation or harassment; and

Whereas, this Council finds and determines that the free flow of pedestrian and vehicular traffic is of vital importance to the economic vitality of business and the City as a whole; and

Whereas, this Council believes in free access and enjoyment of public places; and

Whereas, this Council believes that the prohibitions contained in this ordinance are necessary to ensure protection of pedestrian and vehicular traffic and free access and enjoyment of public places; and

Whereas, this Council finds and determines that forcing oneself upon the company of another as proscribed in this ordinance is conduct that would intimidate a reasonable person; 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 Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 605.031 to read as follows:

Section 605.031 Aggressive Solicitation

(a) For purpose of this section:

(1) "Aggressive manner" means as follows:

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

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

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

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

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

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

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

(4) "Public property" means all property owned, operated or controlled by any governmental agency,

including but not limited to streets, public sidewalks, tree lawns, parks, playgrounds, publicly-owned parking lots, schools, libraries, post offices, municipal transit facilities and other public lands and buildings.

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

(b) No person shall solicit:

(1) In an aggressive manner;

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

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

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

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

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

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

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

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

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

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

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

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

Ord. No. 696-05.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more contracts of labor and materials necessary to install an ergonomic paper cutting and handling system, including removal of the old system, 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 authorized to make one or more written contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for each or all of the following items: labor and materials necessary to install an ergonomic paper cutting and handling system, including removal of the old system, to be purchased by the Commissioner of Purchases and Supplies for a gross price, for the Division of Printing and Reproduction, Department of Finance.

Section 2. That the cost of the contract or contracts authorized shall be paid from Fund No. 11 SF 006, Request No. 157029.

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

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

Ord. No. 697-05.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more contracts with Betty Montgomery, Ohio State Auditor, for professional services necessary to perform an assessment and to express the opinion of the City regarding the 2005 financial statements, and to complete two statements of Auditing Standards for the Divisions of Water and Taxation.

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

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

Section 1. That the Director of Finance is authorized to enter into one or more contracts with Betty Montgomery, Ohio State Auditor, for professional services necessary to complete an independent assessment and to express the opinion of the City whether the 2005 financial statements fairly present the financial position of the City and other things; and to authorize the auditor to complete two statements on Auditing Standards for the Divisions of Water and Taxation, in the total approximate sum of \$425,000, for the Department of Finance. The contracts or contracts shall be paid from funds appropriated for this purpose in budget year 2006, Request No. 154406.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the

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

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

Ord. No. 698-05.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials necessary to maintain and repair heating, ventilation, and air conditioning systems, for the various divisions of the Department of Port Control.

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

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

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

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 129218)

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

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

Ord. No. 699-05.
By Council Members Coats and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Service to cause payment of the City's share to the County of Cuyahoga for the cost of repairing and resurfacing St. Clair Avenue from East 140th Street to the east corporation line.

Whereas, in Ordinance No. 1076-94, passed June 13, 1994, this Council gave consent to the Commissioners of Cuyahoga County, Ohio for repairing and resurfacing St. Clair Avenue from East 140th Street to the east corporation line; and

Whereas, this Council authorized the City to cooperate with the State of Ohio in the cost of the above-referenced agreement; and

Whereas, the City's share of the cost of the improvement is currently estimated to be \$660,000.00; 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 authorizes payment to the County of Cuyahoga of the City's share of repairing and resurfacing St. Clair Avenue from East 140th Street to

the east corporation line, from Fund Nos. 20 SF 364, 20 SF 373, 20 SF 380, 20 SF 383, 20 SF 394, and 20 SF 500, Request No. 157303.

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

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

Ord. No. 700-05.
By Council Members Westbrook, Sweeney, Cimperman and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Public Service to issue a permit to Cudell Improvement, Inc. to encroach into the public right-of-way of Lorain Avenue from West 90th Street to West 100th Street with 30 hanging planters between May 1st and September 30th yearly using 7-CPP and 8-CEI utility poles (by separate permission).

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 authorized to issue a permit, revocable at the will of Council, to Cudell Improvement Inc. to encroach into the public right-of-way above Lorain Avenue from West 90th Street to West 100th Street by installing, using, and maintaining 30 hanging planters to be attached to seven (7) Cleveland Public Power and eight (8) CEI utility poles (by separate permission) between May 1st and September 30th yearly at the locations more fully described as follows:

| <u>Locations:</u> | <u>Pole# & Owner:</u> | <u>Attachment:</u> |
|-----------------------|---------------------------|--------------------|
| 9933 Lorain Ave. | AOM-22-62/CPP | Flower Baskets |
| 9901 Lorain Ave. | AOM-22-64/CPP | Flower Baskets |
| 9807 Lorain Ave. | AOM-22-67/CPP | Flower Baskets |
| S.E. Cor. W. 98th St. | AOM-22-68/CPP | Flower Baskets |
| 9709 Lorain Ave. | AOM-22-71/CPP | Flower Baskets |
| 9615 Lorain Ave. | AOT-22-73/CPP | Flower Baskets |
| 9437 Lorain Ave. | AOT-15-64/CPP | Flower Baskets |
| 9402 Lorain Ave. | 13724/CEI | Flower Baskets |
| 9428 Lorain Ave. | None/CEI | Flower Baskets |
| 9508 Lorain Ave. | 13722/CEI | Flower Baskets |
| 9600 Lorain Ave. | 13626/CEI | Flower Baskets |
| 9700 Lorain Ave. | 13727/CEI | Flower Baskets |
| 9740 Lorain Ave. | 13729/CEI | Flower Baskets |
| 9840 Lorain Ave. | 530319/CEI | Flower Baskets |
| 9918 Lorain Ave. | None/CEI | Flower Baskets |

Permittee may assign the Permit only with the written consent of the Director of Public Service.

Section 2. That nothing in this ordinance grants or shall be considered to grant to Permittee any right, privilege, or permission to use, or to attach or affix any object to, poles; Permittee shall obtain such permission from the respective pole owner.

Section 3. That Permittee shall install the encroaching structures only conforming to plans and specifications approved by the Commissioner of Engineering and Construction. That Permittee shall obtain all other required permits, including but not limited to Building Permits, before installing the encroachments.

Section 4. That the Director of Law shall prepare the permit authorized by this ordinance and shall include such additional provisions as the director determines necessary to protect and benefit the public interest. The Permit shall be issued only when, in the opinion of the Director of Law, The City has been properly indemnified against any loss which may result from the encroachments permitted.

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

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

Ord. No. 701-05.

By Council Members Zone, Westbrook, Brady, Sweeney, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Service to enter into a Local Project Administration agreement with the Ohio Department of Transportation to partially fund and construct the rehabilitation of a portion of Detroit Avenue; to employ one or more professional consultants necessary to design the improvement; determining the method of making the public improvement; and authorizing the Director to enter into one or more public improvement contracts to construct the improvement.

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

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

Section 1. That the Director of Public Service is authorized to enter into a Local Project Administration Agreement ("LPA") with the Ohio Department of Transportation ("ODOT") to partially fund and construct the rehabilitation of Detroit Avenue between West 73rd Street and the City west corporation line (the "Improvement").

Section 2. That, provided ODOT's application for funding under the ODOT Transportation Enhancement Rural Program is approved and the City offers and sells general obligation bonds for 2005 which include this purpose, the Director of Public Service is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to design the Improvement.

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

Section 2. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of constructing the Improvement, for the Department of Public Service, by one or more contracts duly let to the lowest responsible bidder or bidders after competitive bidding on a unit basis for the Improvement.

Section 3. That, provided ODOT's application for funding under the ODOT Transportation Enhancement Rural Program is approved and the City offers and sells general oblig-

ation bonds for 2005 which include this purpose, the Director of Public Service is authorized to enter into one or more contracts for the making of the Improvement with the lowest responsible bidder or bidders after competitive bidding on a unit basis for the Improvement, provided, however, that each separate trade and each distinct component part of the Improvement may be treated as a separate improvement, and each, or any combination, of the trades or components may be the subject of a separate contract on a unit basis.

Section 4. That the cost of the contracts authorized shall be paid from the fund or funds which are credited the proceeds of the sale of 2005 general obligation bonds which include this purpose and from the fund or funds which are credited the funds received from ODOT which are appropriated for this purpose, Request No. 149400.

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

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

Ord. No. 704-05.

By Council Members Johnson and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more contracts of labor, materials, and equipment to clear storm sewer at Enginehouse 20, including but not limited to cutting, removing and replacing pavement, for the Division of Property Management, Department of Parks, Recreation and Properties.

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 authorized to make one or more written contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for each or all of the following items: labor, materials, and equipment to clear storm sewer at Enginehouse 20, including but not limited to cutting, removing and replacing pavement, to be purchased by the Commissioner of Purchases and Supplies for a gross price, for the Division of Property Management, Department of Parks, Recreation and Properties.

Section 2. That the cost of the contract or contracts authorized shall be paid from Fund No. 11 SF 006, Request No. 156878.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the

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

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

Ord. No. 705-05.

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

An emergency ordinance to appropriate property for the public purpose of developing a park on Ansel Road near Korman Avenue.

Whereas, the Council of the City of Cleveland, by Resolution No. 1966-04, adopted November 15, 2004, declared the necessity and intention of appropriating the fee simple property interests described in this ordinance for the public purpose of developing a park on Ansel Road near Korman Avenue; and

Whereas, notice of the adoption of this resolution has been served on the persons in possession or having an interest in the property; 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 for the public purpose of developing a park on Ansel Road near Korman Avenue, the following described fee simple interests are appropriated:

P. P. No. 107-04-029

Ansel Road near Korman Avenue
Situating in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sub Lot No. 46 in Zenas King's Subdivision of part of Original One Hundred Acre Lots Nos. 367 and 375, as shown by the recorded plat in Volume 14 of Maps, Page 41 of Cuyahoga County Records, and being 40 feet front on the Easterly side of Ansel Road, N.E., and extending back of equal width 125 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 2. That the Director of Law is directed to apply to a court of competent jurisdiction to have a jury impaneled to make inquiry into and assess the compensation to be paid for the fee simple interests described above.

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

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

**Ord. No. 706-05.
By Council Members Gordon and Jackson (by departmental request).
An emergency ordinance appropriating Community Development Block Grant funds for administrative expenses of the Code Enforcement Program.**

Whereas, the City of Cleveland has received a Community Development Block Grant, Year 31 from the United States Government; 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 Community Development Block Grant funds in the amount of \$441,000, from Fund No. 14 SF 031, RL 149502, are appropriated for the reimbursement of administrative expenses of the Code Enforcement Program incurred in Fund 13 following the appropriate federal regulations for the Department of Building and Housing, in conjunction with the Community Development Block Grant Program.

Section 2. That prior to expending funds under this ordinance, the Director of Building and Housing and the Director of Community Development shall enter into a memorandum of understanding for this program.

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

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

**Ord. No. 707-05.
By Council Members Gordon and Jackson (by departmental request).**

An emergency ordinance appropriating CDBG and Federal HOME Program funds for the administration of the Housing Rehabilitation Programs; and authorizing the Director of Community Development to employ one or more professional consultants to provide property inspections in compliance with Section 8 Housing Quality Standards.

Whereas, the City of Cleveland has received CDBG Year 31 and Year 2005 Federal HOME Program grants from the United States Government; 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 CDBG and Federal HOME Program funds are appropriated for the administration of the Housing Rehabilitation Programs.

Section 2. That the Director of Community Development is authorized

to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to perform property inspections to comply with Section 8 Housing Quality Standards.

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

Section 3. CDBG and HOME Administrative funds in the amount of \$1,270,000 shall be paid from Fund Nos. 14 SF 031 and 13 SF 236.

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

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

**Ord. No. 708-05.
By Council Members Gordon and Jackson (by departmental request).**

An emergency ordinance appropriating Community Development Block Grant and NEF Administrative Cost funds for administrative expenses of the Department of Community Development.

Whereas, the City of Cleveland has received a Community Development Block Grant, Year 31 from the United States Government; and

Whereas, City Council has designated administrative processing costs from Neighborhood Equity Funds; 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 Community Development Block Grant and NEF Administrative Cost funds in the amount of \$2,837,000 from Fund Nos. 14 SF 031 and 10 SF 808 are appropriated for the administrative expenses of the Department of Community Development under the following schedule:

| | |
|-----------|-------------|
| Personnel | \$2,432,000 |
| Other | 405,000 |

Section 2. The Director of Community Development is authorized to expend funds listed in the above Schedule under 'Other' for the cost of activities related to the promotion of various housing events in the City of Cleveland.

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

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

**Ord. No. 709-05.
By Council Members Gordon and Jackson (by departmental request).**

An emergency ordinance appropriating Community Development Block Grant funds for expenses for the Fair Housing Program; and authorizing the Director of Community Relations to enter into one or more contracts with various agencies to implement this program.

Whereas, the City of Cleveland has received a Community Development Block Grant, Year 30, from the United States Government; 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 Community Development Block Grant funds in the amount of One Hundred Thousand Dollars (\$100,000) from Fund No. 14 SF 031, Request No. 125797, are appropriated for costs of the Department of Community Relations incurred in Fund 13 following the appropriate federal regulations associated with conducting the Fair Housing Program in conjunction with the Community Development Block Grant Program.

Section 2. That the Director of Community Relations is authorized to enter into one or more contracts with various non-profit and for-profit agencies providing services necessary to implement the Fair Housing Program.

Section 3. That prior to expending funds under this ordinance, the Director of Community Relations and the Director of Community Development shall enter into a memorandum of understanding for this program.

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

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

Ord. No. 710-05.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance appropriating Community Development Block Grant funds for expenses of the Senior Homeowners Assistance Program (SHAP) and the CHORE Program; and authorizing the Director of Aging or Community Development, as appropriate, to enter into one or more contracts with various agencies to implement these programs.

Whereas, the City of Cleveland has received a Community Development Block Grant, Year 30, from the United States Government; 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 Community Development Block Grant funds in the amount of One Hundred Sixty Thousand Dollars (\$160,000) from Fund No. 14 SF 031, Request No. 125800, are appropriated for costs of the Department of Aging incurred in Fund 13 associated with conducting the Senior Homeowners Assistance Program ("SHAP") and the CHORE Program in conjunction with the Community Development Block Grant Program.

Section 2. That the Director of Aging or Community Development, as appropriate, is authorized to enter into one or more contracts with various non-profit and for-profit agencies, rehabilitation service providers, tenants, homeowners, and entities providing services necessary to implement the Senior Homeowners Assistance Program (SHAP) and the CHORE Program.

Section 3. That prior to expending funds under this ordinance, the Director of Aging and the Director of Community Development shall enter into a memorandum of understanding for this program.

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

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

Ord. No. 711-05.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance appropriating Community Development Block Grant funds for anti-predatory lending and foreclosure prevention assistance; and authorizing the Director of Consumer Affairs to enter into one or more contracts with various entities to provide assistance to City residents.

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 Community Development Block Grant funds in the amount of Three Hundred Thousand Dollars (\$300,000) are appropriated for anti-predatory lending and foreclosure prevention assistance programs.

Section 2. That the Director of Consumer Affairs is authorized to enter into one or more contracts with various organizations to provide counseling, training, marketing, program evaluation and other services required for anti-predatory lending and foreclosure prevention assistance.

Section 3. That the aggregate cost of the contracts shall not exceed \$300,000 and shall be paid from Fund No. 14 SF 236, Request No. 125796.

Section 4. That prior to expending funds under this ordinance, the Directors of Consumer Affairs and Community Development shall enter into a memorandum of understanding for this program.

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

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

Ord. No. 712-05.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into an agreement with the Board of Commissioners of Cuyahoga County to reimburse the County for a portion of the cost of the acquisition of the homeless shelter located at 2100 Lakeside Avenue.

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

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

Section 1. That the Director of Community Development is authorized to enter into an agreement with the Board of Commissioners of Cuyahoga County (the "County") to reimburse the County for a portion of the cost of the acquisition of the homeless shelter located at 2100 Lakeside Avenue.

Section 2. That the cost of the agreement shall not exceed \$450,000 and shall be paid from Fund No. 14 SF 030, Request No. 149501.

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

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

Ord. No. 713-05.

By Council Members Zane, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into contract with Gordon Square Homes, L.P., or its designee, to provide financial assistance in the form of a Community Development Block Grant Float Loan to partially finance the acquisition and development of the Gordon Square Homes apartment project.

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

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

Section 1. That the Director of Community Development is authorized to enter into a Community Development Block Grant Float Loan Agreement with Gordon Square Homes, L.P., or its designee, to provide financial assistance to partially finance the acquisition and development of the Gordon Square Homes apartment project.

Section 2. That the terms of the loan shall be determined by the Director of Community Development in accordance with Federal regulations, State and local laws, and the director is authorized to amend the terms, from time to time, as the director deems necessary to remain consistent with the laws and regulations.

Section 3. That the aggregate cost of the agreement shall not exceed Four Million Dollars (\$4,000,000) and shall be paid from Fund No. 14 SF 810, Request No. 149506.

Section 4. That the Director of Community Development shall obtain an irrevocable, unconditional letter of credit to secure repayment of the loan.

Section 5. That the Director of Community Development is authorized to accept collateral as the director deems adequate in order to secure repayment of the loan. Any and all security instrument agreements or other agreements shall be prepared and approved by the Director of Law.

Section 6. That the Director of Community Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 14.

Section 7. That the Director of Community Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable under federal regulations and expend the fees to cover costs incurred in the preparation of the loan application, closing, and servicing of the loan.

Section 8. That the Director of Law is authorized to prepare the contract and any other documents as may be appropriate to complete the transactions.

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

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

Ord. No. 714-05.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into one or more contracts with Cleveland Housing Network, or its designee, for the acquisition, rehabilitation or construction of low-income housing units.

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

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

Section 1. That the Director of Community Development is authorized to enter into one or more contracts with Cleveland Housing Network, or its designee, for the acquisition, rehabilitation or construction of low income rental or lease-purchase housing units.

Section 2. That the cost of the contracts shall not exceed \$2,000,000.00, and shall be paid from Fund No. 13 SF 236, Request No. 125799.

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

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

Ord. No. 715-05.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into contracts with one or more non-profit agencies to operate a community garden 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 Community Development is authorized to enter into contracts with one or more non-profit agencies to operate a community gardening program.

Section 2. That the cost of the contract or contracts shall not exceed \$110,000.00, and shall be paid from Fund No. 14 SF 031 Request No. 125795.

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

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

Ord. No. 716-05.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into agreements with Storefront Renovation Program applicants, and to enter into agreements to reimburse eligible administrative costs to community development corporations for implementation of the Storefront Renovation 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 Community Development is authorized to enter into agreements with Storefront Renovation Program applicants, and to enter into agreements to reimburse eligible administrative costs to community development corporations for implementation of the Storefront Renovation Program. The agreements shall not exceed \$900,000.00 and shall be paid from Fund No. 14 SF 031, Request Nos. 125791.

Section 2. That the Director of Community Development is authorized to accept program income monies in repayment from local development corporations under the Storefront Renovation Program and to utilize this program income, other Community Development Block Grant program income and Kiosk program income in a revolving fund for additional expenditures under the Storefront Renovation Program, and such program income is hereby appropriated for that purpose.

Section 3. That the City is authorized to accept promissory notes, naming the City of Cleveland as payee, and mortgages, naming the City of Cleveland as mortgagee, and any other security instrument executed to evidence and secure repayment of loans, costs and fees under the City's Storefront Renovation Program.

Section 4. That the Director of Community Development is authorized to enter into forbearance agreements with any recipient of a validly existing loan, administered by the City under the City's Storefront Renovation Program.

Section 5. That the Director of Community Development is authorized to collect from persons or entities with whom the City is entering into loan agreements or forbearance agreements an amount equal to any amount spent for services related to such agreements, such as title searches, credit bureau reports and document filing fees. Such fees shall be deposited into Fund No. 14.

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

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

Ord. No. 717-05.

By Council Members Gordon, White and Jackson (by departmental request).

An emergency ordinance to amend Sections 183.021 and 183.022 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to land reutilization programs and development of an industrial land bank; and to authorize the Director of Economic Development to use the proceeds for the sale of these lands for environmental investigation and remediation.

Whereas, The City of Cleveland has implement the provisions of Chapter 5722 of the Revised Code for a land reutilization program as therein provided; and

Whereas, The City of Cleveland desires to establish an industrial land bank under the procedures set forth in Chapter 5722 of the Revised Code; and

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

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

Section 1. That Sections 183.021 and 183.022 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance Nos. 1547-90, passed April 8, 1991 and Ordinance No. 660-79, passed June 11, 1979, are amended to read as follows:

Section 183.021 Land Reutilization Programs

(a) The Directors of Community Development and Economic Development shall administer Land Reutilization Programs established under Chapter 5722 of the Revised Code and adopted and implemented by Ordinance 2076-76, passed October 25, 1976, and shall perform the duties specified in Chapter 5722.06 of the Revised Code. If land acquired as part of the Land Reutilization Programs are sold, it shall be sold according to the terms of Chapter 5722 of the Revised Code, without competitive bidding, for not less than fair market value, with reference to such terms and conditions, restrictions and covenants to assure the effective reutilization of the land, as the Board of Control shall authorize, and the land shall be conveyed notwithstanding any other provisions of the Codified Ordinances to the contrary.

(b) If a member of Council disapproves in writing to the use of the following process for selling Land Reutilization Program properties in his or her ward and files his or her written disapproval in File No. 1547-90-A, then the following process shall not be used for the selling of the property in his or her ward.

(c) The Commissioner of Purchases and Supplies when directed by the Director of Community Development or Economic Development with the prior consent of the member or members of Council in whose ward or wards the land to be sold is located, is authorized to sell any land which is acquired as part of Land Reutilization Programs to an abutting or adjacent landowner if the land is either less

than forty-eight hundred (4,800) square feet or less than forty (40) feet of street frontage and if the landowner purchasing the land is neither tax delinquent or has any existing Building or Housing Code violations. The consideration for any land sold under the authority of this division shall be fixed by the Board of Control in accordance with division (a) of this section. Each instrument of conveyance shall contain provisions and use restrictions as Council deems necessary or appropriate to protect the interests of the neighborhood and the City.

(d) Any land which is acquired as part of Land Reutilization Programs and not authorized to be sold by the Director of Community Development or Economic Development in accordance with division (c) of this section shall only be sold when authorized by ordinance passed by the Council.

(e) That the Director of Economic Development is authorized to deposit the proceeds from the sale of any remediated industrial or commercial lands into Special Revenue Fund No. 17 SF 965. This fund shall be used for costs associated with acquisition and disposition of industrial and commercial property as part of the Land Reutilization Program.

(f) That the Director of Economic Development is authorized to execute on behalf of the City of Cleveland all necessary documents to employ and pay all fees for title companies, surveys, escrows, appraisers, environmental insurance, environmental investigations, remediation, and all other costs necessary for the acquisition and disposition of the property. That the costs of these contracts shall be paid from Fund 17 SF 965 and from any other funds or subfunds which are appropriated for this use.

Section 183.022 Gifts of Real Property

To enhance the effectiveness of the Land Reutilization Program, the Directors of Community Development and Economic Development are authorized to accept, as gifts, real property which shall be held, administered and disposed of in the same manner as are lands acquired under Chapter 5722 of the Revised Code.

Section 2. That existing Sections 183.021 and 183.022 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance Nos. 1547-90, passed April 8, 1991 and Ordinance No. 660-79, passed June 11, 1979, are repealed.

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

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

Ord. No. 718-05.
By Council Members Gordon and Jackson (by departmental request).
An emergency ordinance authorizing the Director of Consumer Affairs to apply for and accept grants and gifts from public and private entities to support the Anti-Predatory Lending Public Awareness Campaign.

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 Consumer Affairs is authorized to apply for and accept grants and gifts from public and private entities for the purpose of funding programs, events, projects, and services in conjunction with the Anti-Predatory Lending Public Awareness Campaign during the duration of the campaign. The Director is further authorized to file all papers and execute all documents necessary to receive the funds accepted under this ordinance, and on acceptance of the funds by the Director, they shall be appropriated for the purposes contained in this ordinance.

Section 2. That the gifts and grants received under this ordinance shall be placed in a fund to be designated by the Director of Finance.

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

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

Ord. No. 720-05.
By Council Member Jackson (by departmental request).

An emergency ordinance providing for the issuance and sale of Bonds in the maximum principal amount of \$6,380,000 for the purpose of providing funds to improve Municipal Parks and Recreation facilities; and the issuance of notes in anticipation of those Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Six Million Three Hundred Eighty Thousand Dollars (\$6,380,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five (5) years and the maximum maturity of the Bonds is twenty (20) years; and

Whereas, this Council passed Ordinance No. 1749-80 on October 8, 1980, and thereafter amended that ordinance by Ordinance No. 1112-83, passed on May 6, 1983, and Ordinance No. 944-96, passed on June 10, 1996 (Ordinance No. 1749-80, as so

amended and as the same may further be amended from time to time in accordance with its provisions, is referred to as the "General Bond Ordinance"), providing the general terms and provisions for the issuance of unvoted general obligations of the City, with the specific terms of each series of bonds to be contained in ordinances authorizing their issuance (the "Series Bond Ordinances"); and

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

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

Section 1. Purpose. It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Six Million Three Hundred Eighty Thousand Dollars (\$6,380,000) for the purpose of providing funds to improve municipal parks and recreation facilities by constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving parks and recreation centers and areas, pools, skating rinks, greenhouses, bicycle paths, playgrounds, playfields, tracks, fields and related buildings, structures, walkways, pavement and facilities, and providing necessary water systems, drainage, lighting, signage, fixtures, furnishings, equipment, safety modifications and site improvements, together with all preliminary associated research, planning and development and all necessary and incidental appurtenances in all cases, including the acquisition of any required real estate and interests in real estate and the demolition of any existing buildings, structures, walkways and facilities, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of the Bonds.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Parks and Recreation Facilities Improvement Bonds, Series 2005." The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be dated as of June 1, 2005, or such other date, but in no event later than December 31, 2005, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed seven percent (7%) per year, and if the Bonds bear interest at more than one rate per year, then the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on June 1 and December 1 of each year or on the days specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning December 1, 2005 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on December 1 in no more than twenty (20) substantially equal annual installments, beginning December 1, 2006, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than June 1, 2006 and no later than December 1, 2006, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

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

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

(a) Mandatory Sinking Fund Redemption. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory sinking fund redemption and be redeemed pursuant to Mandatory

Sinking Fund Redemption Requirements, at a redemption price of 100 percent of the principal amount redeemed, plus interest accrued to the redemption date, on the Mandatory Redemption Dates.

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

The City shall have the option to deliver to the Registrar (as defined in Section 3) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth (45th) day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, setting forth the extent of the credit to be applied with respect to the then current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Registrar, to the extent not applied theretofore as a credit against any mandatory redemption obligation.

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

(b) Optional Redemption. The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, at the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date, provided the first optional redemption date shall not be later

than December 1, 2015 and the highest redemption price shall not be greater than 102%. The Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity.

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

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

(d) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and

(iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any municipal bond insurance company that has issued a policy insuring some or all of the Bonds. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

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

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

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

Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 720-05-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Agreement from the proceeds

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

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

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

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

Notwithstanding any other provisions of this Ordinance, if it is determined by the Director of Finance to

be advantageous to the City, the Bonds may be issued in book entry form in accordance with the provisions of this Section. As used in this Section and this Ordinance:

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

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

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

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

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

the event is not the result of City action or inaction, of those persons requesting such issuance.

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

Section 4. Sale of Bonds. The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of either Government Capital Management, LLC or Columbia Equity Financial Corporation or both (the "Financial Advisor"), and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. As permitted under the Charter, the Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, and procedure, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is authorized and directed to sign and deliver on behalf of the City a bond

purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds on terms consistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in the File referenced in Section 3, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

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

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

made by the City for the benefit of the holders and beneficial owners of the Bonds in accordance with the SEC Rule. The performance of that Agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it.

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the Financial Advisor and legal counsel.

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2005A" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

Section 5. Provision for Levying and Collecting Tax. For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

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

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

Section 6. Application of Proceeds. The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. Accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

Section 7. General Obligation. The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

Section 8. Defeasance.

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

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

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

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

Section 9. Bond Anticipation Notes.

For the purpose of raising money in anticipation of the issuance of the Bonds for the purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Six Million Three Hundred Eighty Thousand Dollars (\$6,380,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

Section 10. Term of the Notes. The Notes: shall bear interest at such rate, not exceeding six percent (6%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five (5) years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that,

if the Director of Finance, based on the advice of the financial advisor of the City, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two (2) years following the date of issuance of the Notes; shall be designated "Parks and Recreation Facilities Improvement Bond Anticipation Notes, Series 2004"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semi-annually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

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

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). Subject to the provisions of Section 5, the person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

Any Note may be exchanged for Notes of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do

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

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

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 2005A". The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

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

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section

10 hereof. The Notes shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Note Purchaser"). The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

Section 13. Security for the Notes. The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used for the retirement of the Notes at maturity, together with the interest thereon, and are hereby pledged for such purpose.

Section 14. Provision for Levying and Collecting Tax. During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

Section 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

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

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

Section 17. Captions. The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 18. Federal Tax Covenants. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon will not be treated as an item of tax preference under Section 57 of the Code.

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

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for

issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes and the Bonds, and (c) to give one or more appropriate certifications of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

Section 19. Bond Insurance and Ratings. If the Director of Finance determines it to be in the best interests of the City, based on the written advice of the Financial Advisor, the Director of Finance may obtain a commitment for municipal bond insurance issued by a nationally recognized municipal bond insurance company insuring the payment when due of the principal of and interest on all or any portion of the Bonds, request a rating on the Bonds from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a policy of municipal bond insurance and/or a rating or ratings on the Bonds including, but not limited to, the entering into of agreements on behalf of the City necessary to secure a policy of municipal bond insurance. Those agreements may be in separate documents or included in a Bond Purchase Agreement, a registrar agreement or a Certificate of Award, or any combination, and contain terms not materially inconsistent with this Ordinance. The expenditure of the amounts necessary to secure that insurance or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Bonds to the extent available and otherwise

from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 20. Open Meeting Determination. It is found and determined that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 21. Findings and Recitals of Validity. It is hereby determined, represented and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds and the Notes in order to make then legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Bonds or the Notes. It is further found and determined, and is hereby represented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provisions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

Section 22. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 23. Severability. Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

Section 24. Legislative Intent. All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its

Charter and Article XVIII of the Constitution of Ohio.

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

Section 25. Emergency Measure.

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

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

Ord. No. 721-05.

By Council Member Jackson (by departmental request).

An emergency ordinance to provide for the issuance and sale of Bonds in the maximum principal amount of \$7,180,000 for the purpose of providing funds for Residential and Neighborhood Development; and the issuance of notes in anticipation of those Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Seven Million One Hundred Eighty Thousand Dollars (\$7,180,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

Whereas, the issuance of the Bonds is necessary to provide funds to pay the costs of certain permanent improvements described in Sec-

tion 1 that are urgently needed for the benefit of the City, and as a result, this Ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety, and for the usual daily operation of a municipal department; now, therefore,

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

Section 1. Purpose. It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Seven Million One Hundred Eighty Thousand Dollars (\$7,180,000) for the purpose of providing funds for public improvements of streets and municipal properties and easements in residential neighborhoods by opening, widening, grading, draining, curbing and paving designated streets, constructing sidewalks, curbs and gutters and driveway approaches, installing storm and sanitary sewers, water lines and storm drainage facilities where necessary and incidental appurtenances in all cases, including the acquisition of any required real estate and interests in real estate and to pay capitalized interest and all expenses incurred in connection with issuance of the bonds, including all financing costs within the meaning of Section 133.01(K) of the Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of the Bonds.

Section 2. Authority and Terms.

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Residential and Neighborhood Development Bonds, Series 2005". The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be dated as of June 1, 2005, or such other date, but in no event later than December 31, 2005, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed seven percent (7%) per year, and if the Bonds bear interest at more than one rate per year, then the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be

payable, until the principal amount is paid, semi-annually on June 1 and December 1 of each year or on the days specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning December 1, 2005 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on December 1 in no more than twenty (20) substantially equal annual installments, beginning December 1, 2006, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than June 1, 2006 and no later than December 1, 2006, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

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

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

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

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

The City shall have the option to deliver to the Registrar (as defined in Section 3) for cancellation Term Bonds in any aggregate principal amount and to receive a credit

against the then current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth (45th) day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, setting forth the extent of the credit to be applied with respect to the then current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Registrar, to the extent not applied theretofore as a credit against any mandatory redemption obligation.

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

(b) **Optional Redemption.** The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, at the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date, provided the first optional redemption date shall not be later than December 1, 2015 and the highest redemption price shall not be greater than 102%. The Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity.

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

of the Council of the City by passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Registrar. There shall be deposited with the Registrar on or prior to the redemption date funds sufficient to redeem at the redemption price all of the redeemable Bonds for which notice of redemption has been given.

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

(d) **Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any municipal bond insurance company that has issued a policy insuring some or all of the Bonds. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

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

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

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

Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 721-05-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be

affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

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

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

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

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

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

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

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

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

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

Section 4. Sale of Bonds. The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase

and, if not purchased for that Account, shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of either Government Capital Management, LLC or Columbia Equity Financial Corporation or both (the "Financial Advisor"), and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. As permitted under the Charter, the Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, and procedure, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is authorized and directed to sign and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds on terms consistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in the File referenced in Section 3, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the sign-

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

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

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

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the Financial Advisor and legal counsel.

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2005A" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

Section 5. Provision for Levying and Collecting Tax. For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

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

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

Section 6. Application of Proceeds. The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. Accrued interest and any

premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

Section 7. General Obligation. The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

Section 8. Defeasance.

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

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

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

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

Section 9. Bond Anticipation Notes.

For the purpose of raising money in anticipation of the issuance of the Bonds for the purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Seven Million One Hundred Eighty Thousand Dollars (\$7,180,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

Section 10. Term of the Notes. The Notes: shall bear interest at such rate, not exceeding six percent (6%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five (5) years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the Director of Finance, based on the advice of the financial advisor of the City, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two (2) years following the date of issuance of the Notes; shall be designated "Parks and Recreation Facilities Improvement Bond Anticipation Notes, Series 2005"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be

payable semi-annually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

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

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). Subject to the provisions of Section 5, the person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

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

If manual signatures on behalf of the City are required, the Note Registrar shall undertake the exchange

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

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 2005A". The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

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

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The Notes shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Note Purchaser"). The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

Section 13. Security for the Notes. The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used for the retirement of the Notes

at maturity, together with the interest thereon, and are hereby pledged for such purpose.

Section 14. Provision for Levying and Collecting Tax. During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

Section 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

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

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

Section 17. Captions. The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 18. Federal Tax Covenants. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon will not be treated as an item of tax preference under Section 57 of the Code.

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

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making

payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

Section 19. Bond Insurance and Ratings. If the Director of Finance determines it to be in the best interests of the City, based on the written advice of the Financial Advisor, the Director of Finance may obtain a commitment for municipal bond insurance issued by a nationally recognized municipal bond insurance company insuring the payment when due of the principal of and interest on all or any portion of the Bonds, request a rating on the Bonds from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a policy of municipal bond insurance and/or a rating or ratings on the Bonds including, but not limited to, the entering into of agreements on behalf of the City necessary to secure a policy of municipal bond insurance. Those agreements may be in separate documents or included in a Bond Purchase Agreement, a registrar agreement or a Certificate of Award, or any combination, and contain terms not materially inconsistent with this Ordinance. The expenditure of the amounts necessary to secure that insurance or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 20. Open Meeting Determination. It is found and determined that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 21. Findings and Recitals of Validity. It is hereby determined, represented and recited that all acts,

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

Section 22. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 23. Severability. Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

Section 24. Legislative Intent. All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its Charter and Article XVIII of the Constitution of Ohio.

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

Section 25. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace,

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

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

Ord. No. 722-05.
By Council Member Jackson (by departmental request).

An emergency ordinance to provide for the issuance of unvoted general obligation Bonds in the maximum principal amount of \$7,540,000 for the purpose of providing funds to improve Public Service Facilities and the issuance of notes in anticipation of those Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Seven Million Five Hundred Forty Thousand Dollars (\$7,540,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

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

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

Section 1. Purpose. It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Seven Million Five Hundred Forty Thousand Dollars (\$7,540,000) for the purpose of demolishing, constructing, renovating, rehabilitating, relocating, furnishing, equipping and otherwise improving, safety

facilities, vehicle and equipment maintenance facilities, fire stations, service stations, facilities for various City Departments, street maintenance facilities, waste collection facilities, East Side Market facilities, West Side Market facilities, buildings and structures housing and providing for the discharge of governmental functions and services otherwise benefiting the public safety, health and welfare, including facilities in, of and for the City Hall, and together with all appurtenances necessary and incidental thereto, and to pay the costs of acquiring any necessary interests in real estate therefor together with the payment of all associated preliminary costs and costs of site clearance and all appurtenances necessary and incidental thereto, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including any financing costs within the meaning of Revised Code Section 133.01(K), and such other costs of those permanent improvements as may be financed with the proceeds of securities as permitted by Revised Code Section 133.15(B) and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of the Bonds.

Section 2. Authority and Terms. The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Public Service Facilities Improvement Bonds, Series 2005." The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be dated as of June 1, 2005, or such other date, but in no event later than December 31, 2005, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed seven percent (7%) per year, and if the Bonds bear interest at more than one rate per year, then the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on June 1 and December 1 of each year or on the days specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning December 1, 2005 or on such other Interest Payment Date specified in the Certificate of Award

as the first Interest Payment Date.

The Bonds shall mature on December 1 in no more than twenty (20) substantially equal annual installments, beginning December 1, 2006, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than June 1, 2006 and no later than December 1, 2006, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

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

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

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

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

The City shall have the option to deliver to the Registrar (as defined in Section 3) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth (45th) day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed

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

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

(b) Optional Redemption. The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, at the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date, provided the first optional redemption date shall not be later than December 1, 2015 and the highest redemption price shall not be greater than 102%. The Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity.

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

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

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

(d) **Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any municipal bond insurance company that has issued a policy insuring some or all of the Bonds. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(e) **Payment of Redeemed Bonds.** Notice having been mailed in the manner provided in the preceding paragraph, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender at the place or places specified in that notice, shall be paid. If money for the redemp-

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

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

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

Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenti-

cated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 722-05-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surren-

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

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

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

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

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Bonds or the principal and interest, and to effect transfers of Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limit-

ed purpose trust company), New York, New York.

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

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

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

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

Section 4. Sale of Bonds. The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall speci-

fy the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of either Government Capital Management, LLC or Columbia Equity Financial Corporation or both (the "Financial Advisor"), and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. As permitted under the Charter, the Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, and procedure, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is authorized and directed to sign and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds on terms consistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in the File referenced in Section 3, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

If, in the judgment of the Director of Finance, a disclosure document in the form of an Official

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

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

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the Financial Advisor and legal counsel.

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2005A" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encom-

passing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

Section 5. Provision for Levying and Collecting Tax. For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

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

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

Section 6. Application of Proceeds. The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. Accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

Section 7. General Obligation. The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to

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

Section 8. Defeasance.

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

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

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

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

direct obligations of the United States of America maturing, or redeemable at the option of the holder, at times and in amounts sufficient to meet payment of debt charges on the Bonds, as directed by the Director of Finance. Any income or interest earned by, or increment to, the investments held under this Section shall, to the extent determined from time to time by the Escrow Agent to be in excess of the amount required to be held by it for the purposes of this Section, be transferred at the time of such determination as provided in Section 17(a) of the General Bond Ordinance for unclaimed funds held by a Paying Agent. In the event of nonpresentation of any Bond as described in Section 17(a) of the General Bond Ordinance, the moneys held pursuant to this Section shall be held and paid as provided in said Section 17(a) for unclaimed funds held by a Paying Agent.

Section 9. Bond Anticipation Notes.

For the purpose of raising money in anticipation of the issuance of the Bonds for the purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed Seven Million Five Hundred Forty Thousand Dollars (\$7,540,000) (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

Section 10. Term of the Notes. The Notes shall bear interest at such rate, not exceeding six percent (6%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five (5) years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the Director of Finance, based on the advice of the financial advisor of the City, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two (2) years following the date of issuance of the Notes; shall be designated "Public Service Facilities Improvement Bond Anticipation Notes, Series 2005"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semi-annually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

U.S. Bank National Association is appointed to act as the authenticating agent, registrar, transfer agent

and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as the Notes are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, an agreement among the City, the Note Registrar and the Escrow Agent (the "Note Registrar Agreement") providing for services relating to the registration, transfer, exchange and payment of Notes. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). Subject to the provisions of Section 5, the person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

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

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

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

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 2005A". The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

Section 11. Execution and Payment of the Notes.

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

Section 12. Sale of the Notes.

The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The Notes shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Note Purchaser"). The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

Section 13. Security for the Notes.

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

Section 14. Provision for Levying and Collecting Tax.

During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in

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

Section 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-12.

Section 16. Miscellaneous.

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

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

Section 17. Captions. The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 18. Federal Tax Covenants. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute

private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon will not be treated as an item of tax preference under Section 57 of the Code.

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

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other

actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

Section 19. Bond Insurance and Ratings.

If the Director of Finance determines it to be in the best interests of the City, based on the written advice of the Financial Advisor, the Director of Finance may obtain a commitment for municipal bond insurance issued by a nationally recognized municipal bond insurance company insuring the payment when due of the principal of and interest on all or any portion of the Bonds, request a rating on the Bonds from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a policy of municipal bond insurance and/or a rating or ratings on the Bonds including, but not limited to, the entering into of agreements on behalf of the City necessary to secure a policy of municipal bond insurance. Those agreements may be in separate documents or included in a Bond Purchase Agreement, a registrar agreement or a Certificate of Award, or any combination, and contain terms not materially inconsistent with this Ordinance. The expenditure of the amounts necessary to secure that insurance or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 20. Open Meeting Determination.

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

Section 21. Findings and Recitals of Validity.

It is hereby determined, represented and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds and the Notes in order to make then legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required be law; and that no limita-

tion of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Bonds or the Notes. It is further found and determined, and is hereby represented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provisions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

Section 22. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 23. Severability. Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

Section 24. Legislative Intent. All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its Charter and Article XVIII of the Constitution of Ohio.

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

Section 25. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirma-

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

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

Ord. No. 723-05.

By Council Member Jackson (by departmental request).

An emergency ordinance to provide for the issuance of unvoted general obligation Bonds in the maximum principal amount of \$16,900,000 for the purpose of providing funds to improve the Municipal Street System and the issuance of notes in anticipation of those Bonds.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Sixteen Million Nine Hundred Thousand Dollars (\$16,900,000) (the "Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Bonds is at least five (5) years and the maximum maturity of the Bonds is twenty (20) years; and

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

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

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

Section 1. Purpose. It is deemed necessary to issue the Bonds in an aggregate principal amount not to exceed Sixteen Million Nine Hundred Thousand Dollars (\$16,900,000) for the purpose of providing funds to improve the municipal street system and related facilities, including streets, expressways, roadways, driveways, sidewalks and pedestrian walkways, by acquiring, constructing, reconstructing, opening, extending, widening, grading, draining, paving, resurfacing, lighting and curbing, installing gutters, sidewalks and related pedestrian improvements, constructing and im-

proving culverts, resetting and constructing catch basins and other storm drainage facilities, constructing, reconstructing, replacing, renovating and rehabilitating bridges, acquiring any real estate and interests in real estate, including easements, necessary for such purpose, and installing signs, signals, markings and other devices for traffic control purposes, together with the payment of all associated preliminary costs and costs of site clearance and all appurtenances necessary and incidental thereto, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including any financing costs within the meaning of Revised Code Section 133.01(K), and such other costs of those permanent improvements as may be financed with the proceeds of securities as permitted by Revised Code Section 133.15(B) and as otherwise permitted by law; and to authorize the issuance of notes in anticipation of the Bonds.

Section 2. Authority and Terms.

The Bonds shall be issued pursuant to the provisions of Article XVIII of the Constitution of Ohio, Sections 133.01 to 133.70, inclusive, and other applicable provisions of the Revised Code, the Charter of the City, the General Bond Ordinance and this Ordinance in the principal amount and for the purpose stated in Section 1. The Bonds shall be designated "Bridges and Roadways Improvement Bonds, Series 2005." The Bonds shall be issued in one lot as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be numbered as determined by the Director of Finance.

The Bonds shall be dated as of June 1, 2005, or such other date, but in no event later than December 31, 2005, specified in the certificate of award providing for the final terms of the Bonds and the sale of the Bonds signed by the Director of Finance in accordance with this Ordinance (the "Certificate of Award"). The Bonds shall bear interest at the rate or rates per year specified in the Certificate of Award; provided that if all the Bonds bear interest at the same rate per year, then such rate shall not exceed seven percent (7%) per year, and if the Bonds bear interest at more than one rate per year, then the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed seven percent (7%) per year. Interest on the Bonds shall be payable, until the principal amount is paid, semi-annually on June 1 and December 1 of each year or on the days specified in the Certificate of Award as the dates on which interest on the Bonds shall be payable (the "Interest Payment Dates"), beginning December 1, 2005 or on such other Interest Payment Date specified in the Certificate of Award as the first Interest Payment Date.

The Bonds shall mature on December 1 in no more than twenty (20) substantially equal annual installments, beginning December 1, 2006, or according to the schedule set forth in the Certificate of Award, provided that (i) each principal

payment shall occur on an Interest Payment Date, (ii) the first principal payment on the Bonds shall be no earlier than June 1, 2006, and no later than December 1, 2006, (iii) the final maturity date of the Bonds shall be no later than twenty (20) years from that date which is twelve months prior to the first date on which provision for payment of principal is made, and (iv) the principal amount thereof shall be payable in annual installments such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year.

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

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

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

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

The City shall have the option to deliver to the Registrar (as defined in Section 3) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City for any Term Bonds. That option shall be exercised by the City on or before the forty-fifth (45th) day preceding the applicable Mandatory Redemption Date, by furnishing the Escrow Agent a certificate, signed by the Registrar, setting forth the extent of the credit to be applied with respect to the then current Mandatory Sinking Fund Redemption Requirement. If the certificate is not timely furnished to the Escrow Agent, the Mandatory Sinking Fund Redemption Requirement

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

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

(b) Optional Redemption. The Bonds may be subject to redemption prior to maturity by and at the option of the City, in whole or in part on any date, in integral multiples of \$5,000, at the optional redemption dates and at the redemption prices (expressed as a percentage of the principal amount redeemed) specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date, provided the first optional redemption date shall not be later than December 1, 2015 and the highest redemption price shall not be greater than 102%. The Director of Finance may determine in the Certificate of Award that it is in the best interests of the City for the Bonds not to be callable prior to their stated maturity.

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

(c) Partial Redemption. If fewer than all of the outstanding Bonds are called for redemption at one

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

(d) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least thirty (30) days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Registrar at the close of business on the fifteenth day preceding that mailing and to any municipal bond insurance company that has issued a policy insuring some or all of the Bonds. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(e) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in the preceding paragraph, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender at the place or places specified in that notice, shall be paid. If money for the redemption of all of the Bonds and portions thereof to be redeemed, including interest accrued to the redemption date, is held by the Registrar on the redemption date, and, if notice of redemption has been deposited in the mail, then from and after the redemption date those Bonds and

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

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

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

Section 3. Execution, Authentication, Approval and Recording of the Bonds; Exchange and Transfer of the Bonds; Paying Agents. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. Pursuant to Section 4 of the General Bond Ordinance, each Bond shall be authenticated by the manual signature of an authorized officer of the Trustee (as defined therein). The Bonds shall be signed by the City's Mayor or Acting Mayor and by the City's Director of Finance or Acting Director of Finance; provided, however, that in accordance with Section 9.96 of the

Code and the foregoing requirement that each Bond bear the manual signature of an authorized officer of the Trustee, either or both of the signatures of the City's Mayor or Acting Mayor or of its Director of Finance or Acting Director of Finance may be a facsimile. The Bonds shall bear the seal of the City, which seal may be a facsimile seal. Pursuant to Section 83 of the City's Charter, the Director of Law or Acting Director of Law shall prepare the Bonds and shall endorse thereon his or her approval of the form and correctness thereof by his or her manual or facsimile signature.

U.S. Bank National Association is appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar"); provided that the Escrow Agent shall also act as paying agent for the Bonds so long as the Bonds are held in a book entry system. The Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement among the City, the Registrar and the Escrow Agent (the "Agreement") in substantially the form as is now on file with the Clerk of Council in File No. 723-05-A. The Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreement or amendments to the Agreement. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Bonds remain outstanding, the City will cause the Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the principal corporate trust office of the Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Registrar.

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

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

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

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

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

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and deal-

ers, banks and trust companies, and clearing corporations.

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

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

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

Section 4. Sale of Bonds. The Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Original Purchaser").

The Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Bonds in accordance with law, the provisions of this Ordinance, the written advice of either Government Capital Management, LLC or Columbia Equity Financial Corporation or both (the

"Financial Advisor"), and the Original Purchaser's offer to purchase the Bonds, including: the principal amount of the Bonds, final purchase price (which shall be not less than 97% of the principal amount plus accrued interest to their date of delivery), interest rate or rates, the amounts and years in which principal installments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), the Interest Payment Dates and the date of the Bonds (if different from those set forth in Section 2) and any other matters required in this Ordinance to be set forth in that Certificate. As permitted under the Charter, the Mayor, Director of Finance, Director of Law and other appropriate officers of the City are, and each of them is, authorized and directed to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, and procedure, and conditions for the delivery of the Bonds to the Original Purchaser, to give all appropriate notices and certificates, to cause a true transcript of proceedings with reference to the issuance of the Bonds to be delivered to the Original Purchaser, to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance and to take all steps necessary to effect the due execution, authentication and delivery of the Bonds. The Director of Finance is authorized and directed to sign and deliver on behalf of the City a bond purchase agreement (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, between the City and the Original Purchaser setting forth the terms and conditions on which the City agrees to sell the Bonds and the Original Purchaser agrees to buy the Bonds on terms consistent with this Ordinance. The Bond Purchase Agreement is approved substantially in the form now on the file with the Clerk of Council in the File referenced in Section 3, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance and the Director of Law on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement. It is determined that the terms of the Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, are in the best interest of the City and in compliance with all legal requirements.

If, in the judgment of the Director of Finance, a disclosure document in the form of an Official Statement is appropriate or necessary in connection with the original issuance of the Bonds, he is authorized to prepare or cause to be prepared on behalf of the City an Offi-

cial Statement and any necessary supplements and to authorize the use and distribution of that Official Statement and any supplements. He is authorized to sign on behalf of the City and in his official capacity, that Official Statement and any supplements approved by such officer. He is authorized to sign and deliver, on behalf of the City and in his official capacity, such certificates in connection with the accuracy of the Official Statement and any supplements as may, in his judgment, be necessary or appropriate. He is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 (the "SEC Rule"). The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final official statements, including by printed and electronic means.

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

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the Director of Finance shall consult with, as appropriate, the Financial Advisor and legal counsel.

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bonds, Series 2005A" or such other designation as may be set forth in the Certificate of Award. Such bonds shall contain a summary statement of purposes encompassing the purpose for which the Bonds are issued and shall state that they are issued pursuant to this Ordinance.

Section 5. Provision for Levying and Collecting Tax. For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide for the discharge of the Bonds at maturity, there shall be and is levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding, in an amount sufficient to provide for the payment of that interest, when and as the same shall fall due, and also to discharge the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

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

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

Section 6. Application of Proceeds. The proceeds from the sale of the Bonds, except for accrued interest thereon and any premium, shall be expended and applied for the objects and purposes for which the Bonds are issued. Accrued interest and any premium received from the sale of the Bonds shall be deposited in the Unvoted Tax Supported Obligations Account of the Sinking Fund to be applied to the payment of the principal of and interest on the Bonds.

Section 7. General Obligation. The Bonds are secured by a pledge and lien on a parity with the pledges and liens authorized by the General Bond Ordinance and, in addition to the taxes and revenues specifically pledged pursuant to this Ordinance and the General Bond Ordinance and the other covenants, terms and agreements provided hereunder and

in the General Bond Ordinance to secure payment of the principal of and interest on the Bonds, the City hereby determines, declares, warrants and covenants that the Bonds are general obligations of the City and that the full faith and credit of the City are hereby pledged for the payment of the principal of and interest on the Bonds in accordance with the laws and Constitution of the State of Ohio, this Ordinance and the General Bond Ordinance.

Section 8. Defeasance.

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

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

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

(ii) the Escrow Agent shall hold in special accounts or sub-accounts, in trust for and irrevocably committed solely thereto, direct obligations of the United States certified by an independent public accounting firm of national reputation to be of such maturities and interest payment dates and to bear such interest, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (likewise to be held in trust and committed, except as hereinafter provided), as will be sufficient, together with moneys referred to in (i) above, for the payment, at their maturities or redemption dates, of all debt charges on the Bonds to their date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date then to the date of the tender of such payment; provided, that if any Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of such notice. Any moneys held by the Escrow Agent in accordance with the provisions of this Section shall be invested by the Escrow Agent in direct obligations of the United States of America maturing, or redeemable at the option of the holder, at times and in amounts sufficient to meet payment of debt

charges on the Bonds, as directed by the Director of Finance. Any income or interest earned by, or increment to, the investments held under this Section shall, to the extent determined from time to time by the Escrow Agent to be in excess of the amount required to be held by it for the purposes of this Section, be transferred at the time of such determination as provided in Section 17(a) of the General Bond Ordinance for unclaimed funds held by a Paying Agent. In the event of nonprepayment of any Bond as described in Section 17(a) of the General Bond Ordinance, the moneys held pursuant to this Section shall be held and paid as provided in said Section 17(a) for unclaimed funds held by a Paying Agent.

Section 9. Bond Anticipation Notes.

For the purpose of raising money in anticipation of the issuance of the Bonds for the purposes set forth in Section 1 hereof, notes of the City may be issued in an aggregate principal amount not to exceed \$16,900,000 (the "Notes") upon the direction of the Director of Finance to be set forth in a certificate providing for the final terms of the Notes and the sale of the Notes and signed by the Director of Finance (the "Note Certificate of Award").

Section 10. Term of the Notes. The Notes: shall bear interest at such rate, not exceeding six percent (6%) per year, as may be fixed by the Director of Finance of the City in the Note Certificate of Award; shall be dated their date of issuance; shall mature on the date set forth in the Note Certificate of Award, which shall be no later than five (5) years from such date of issuance; shall be subject to redemption by the City at any time prior to maturity without penalty, provided that, if the Director of Finance, based on the advice of the financial advisor of the City, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, the Director of Finance may cause the Notes to not be redeemable for a period which ends no later than the date which is two (2) years following the date of issuance of the Notes; shall be designated "Bridges and Roadways Improvement Bond Anticipation Notes, Series 2005"; shall be issued in such numbers and denominations as may be requested by the Note Purchaser (hereinafter defined); and shall be issued in fully registered form (which may be in a book entry only system) in denominations of \$5,000 or integral multiples thereof. Interest shall be payable semi-annually on the dates set forth in the Note Certificate of Award; provided that if the Notes mature on or before the end of the twelfth (12th) month following their date of issuance, interest on the Notes shall be payable at maturity.

U.S. Bank National Association is appointed to act as the authenticating agent, registrar, transfer agent and paying agent for the Notes (the "Note Registrar"); provided that the Escrow Agent also shall act as paying agent for the Notes so long as the Notes are held in a book entry system. The Director of Finance shall sign and deliver, in the name

and on behalf of the City, an agreement among the City, the Note Registrar and the Escrow Agent (the "Note Registrar Agreement") providing for services relating to the registration, transfer, exchange and payment of Notes. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Note Registrar Agreement from the proceeds of the Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

So long as any of the Notes remain outstanding, the City will cause the Note Registrar to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of Notes as provided in this Section (the "Note Register"). Subject to the provisions of Section 5, the person in whose name a Note is registered on the Note Register shall be regarded as the absolute owner of that Note for all purposes of this ordinance. Payment of or on account of the debt charges on any Note shall be made only to or upon the order of that person; neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Note, including interest, to the extent of the amount or amounts so paid.

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

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

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

Pursuant to Section 133.30(B), Ohio Revised Code, the Director of Finance may combine the Notes with other bond anticipation notes of the City into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated "Various Purpose General Obligation Bond Anticipation Notes, Series 2005". The Notes shall contain a summary statement of purposes encompassing the purpose for which the Notes are issued and shall state that they are issued pursuant to this Ordinance.

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

Section 12. Sale of the Notes. The Notes shall be sold at private sale to the Note Purchaser by the Director of Finance in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award") at not less than par and accrued interest and at a rate not exceeding that set forth in Section 10 hereof. The Notes shall be sold to SBK-Brooks Investment Corp., Apex Pryor Securities, Loop Capital Markets, LLC, M.R. Beal & Company, Seibert Brandford Shank & Co., LLC (collectively, the "Note Purchaser"). The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

Section 13. Security for the Notes. The Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used for the retirement of the Notes at maturity, together with the interest thereon, and are hereby pledged for such purpose.

Section 14. Provision for Levying and Collecting Tax. During the year or years while the Notes are outstanding there shall be levied on all the taxable property in the City, in addition to all other taxes but within tax limitations, a direct tax annually not less than that which would have been levied if bonds had been issued therefor without the prior issue of the Notes. That tax shall be and is ordered computed, certified,

levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each year are certified, extended and collected. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in the Unvoted Tax Supported Obligations Account, and those funds, together with the interest collected on them, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued, when and as the same falls due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City may be reduced by the amount of such revenues so available and appropriated.

Section 15. Preparation of Disclosure Document for the Notes. The Director of Finance is hereby authorized to prepare, execute and deliver to the Note Purchaser, to the extent required by law, a preliminary and final Official Statement or any other appropriate disclosure document of the City in accordance with the sale and delivery of the Notes, and to deem such disclosure document "final" for purposes of SEC Rule 15c2-2.

Section 16. Miscellaneous.

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

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

Section 17. Captions. The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 18. Federal Tax Covenants. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes and the Bonds in such manner and to such extent as may be necessary so that (a) the Notes and the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the inter-

est thereon will not be treated as an item of tax preference under Section 57 of the Code.

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

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes and the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes and the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes and the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the

Notes and the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes and the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes and the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes and the Bonds.

Section 19. Bond Insurance and Ratings. If the Director of Finance determines it to be in the best interests of the City, based on the written advice of the Financial Advisor, the Director of Finance may obtain a commitment for municipal bond insurance issued by a nationally recognized municipal bond insurance company insuring the payment when due of the principal of and interest on all or any portion of the Bonds, request a rating on the Bonds from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a policy of municipal bond insurance and/or a rating or ratings on the Bonds including, but not limited to, the entering into of agreements on behalf of the City necessary to secure a policy of municipal bond insurance. Those agreements may be in separate documents or included in a Bond Purchase Agreement, a registrar agreement or a Certificate of Award, or any combination, and contain terms not materially inconsistent with this Ordinance. The expenditure of the amounts necessary to secure that insurance or obtain those ratings is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 20. Open Meeting Determination. It is found and determined that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 21. Findings and Recitals of Validity. It is hereby determined, represented and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds and the Notes in order to make then legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Bonds or the Notes. It is further found and determined, and is hereby represented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provi-

sions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

Section 22. Delivery to County Auditor. The Director of Finance is hereby authorized and directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefor.

Section 23. Severability. Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

Section 24. Legislative Intent. All terms, conditions, pledges, covenants or agreements on the part of the City provided for in this Ordinance are made by the voluntary act of the City under its lawful authority, including its authority under its Charter and Article XVIII of the Constitution of Ohio.

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

Section 25. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

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

Ord. No. 724-05.**By Council Member Cimperman.**

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Jefferson Avenue to Thomas P. Leneghan.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 004-19-180, as more fully described below, to Thomas P. Leneghan.

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

P. P. No. 004-19-180

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot Nos. 637, 638, 639 and 640 in S.S. Stone's survey of the College Tract of part of Original Brooklyn Township Lot No. 87 as shown by the recorded plat of said survey in Volume 2 of Maps, Page 31 of Cuyahoga County Records, said parts of Sublot Nos. 637, 638, 639 and 640 together forming a parcel of land bounded and described as follows:

Beginning in the Northwesterly line of Jefferson Avenue, S.W. at the most Easterly corner of said Sublot No. 640, thence Northwesterly along the Northeasterly lines of said Sublots, 120 feet to a point 12 feet Southerly from the Northeasterly or most Northerly corner of said Sublot No. 637; thence Southwesterly along a line parallel with the Northwesterly line of said Sublot No. 637, 30 feet; thence Southeasterly along a line parallel with the Northeasterly line of said Sublots, 120 feet to the Northwesterly line of Jefferson Avenue, South West; thence Northeasterly along the Northwesterly line of Jefferson Avenue, S.W. 30 feet to the place of beginning, 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 including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 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, Finance.

Ord. No. 725-05.**By Council Member Lewis.**

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Pulaski, Sowinski and Kosciuszko Avenues to Cleveland Municipal School District.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-035 as more fully described below, to Cleveland Municipal School District.

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. 107-06-035

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as Sublot No. 104 in Joseph Hoffman's Posen Subdivision, of part of Original One Hun-

dred Acre Lot Nos. 375 and 376, as shown by the recorded plat of said Subdivision in Volume 20 of Maps, Page 29 of Cuyahoga County Records. Said Sublot No. 104 has a frontage of 38.46 feet on the Westerly side of Ansel Road, N.E., is 112.95 feet deep on the Northerly line, 132.78 feet deep on the Southerly line and is 33 feet wide in the rear, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to Zoning Ordinances, if any.

Section 3. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-101 as more fully described below to Cleveland Municipal School District.

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

P. P. No. 107-06-101

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 181 in the Joseph Hoffman's Posen Subdivision of part of Original One Hundred Acre Lot Nos. 375 and 376, as shown by the recorded plat of said Subdivision in Volume 20 of Maps, Page 29 of Cuyahoga County Records. Said Sublot has a frontage of 30 feet front on the Northerly side of Sowinski Avenue N.E. and extending back of equal width 100 feet deep, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 5. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-090 as more fully described below, to Cleveland Municipal School District.

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

P. P. No. 107-06-090

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Westerly 28-1/2 feet of Sublots Nos. 105 and 105-1/2 and part of the Posen Subdivision of part of Original One Hundred Acre Lots Nos. 375 and 376, as shown by the recorded plat of said Subdivision in Volume 20 of Maps, Page 29 of Cuyahoga County Records. Said parts of Sublots Nos. 105 and 105-1/2 together form a parcel of land having a frontage of 33-1/2 feet on the Southerly side of Sowinski Avenue, N.E., and extending back between parallel lines 78 feet, as appears by said plat and includes the Easterly one-half of a 10 foot alley (formerly known as East 86th Place) which lies Westerly from and contiguous to the Westerly line of said Sublots Nos. 105 and 105-1/2 between the Westerly extension of the Northerly line of Sublot No. 105-1/2 and the Westerly extension of the Southerly line of Sublot No. 105, having been vacated by vacation plat recorded in Volume 170 of Maps, Page 9 of Cuyahoga County Records be the same more or less, but subject to all legal highways.

Section 7. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-084 as more fully described, to Cleveland Municipal School District.

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

P. P. No. 107-06-084

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 111 and a part of vacant portion of Hedwig Court, Northeast, in Joseph Hoffman's Posen Subdivision of part of Original One Hundred Acre Lot Nos. 375 and 376, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records and together forming a parcel of land 30 feet front on the Southerly side of Sowinski Avenue, Northeast, and extending back of equal width 105 feet to the centerline of Hedwig Court, Northeast, now vacated, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 9. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-050 as more fully described below, to Cleveland Municipal School District.

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

P. P. No. 107-06-050

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 88 and the Southerly one-half of vacated Hedwig Court N.E. (12 feet wide), vacated by the City of Cleveland by Ordinance No. 917-58, passed April 21, 1958 in the Posen Subdivision of part of Original One Hundred Acre Lots Nos. 375 and 376, as shown by the recorded plat of said Subdivision in Volume 20 of Maps, Page 29 of Cuyahoga County Records. Said Sublot No. 88 has a frontage of 30 feet on the Northerly side of Kosciuszko Avenue, N.E. (formerly Hoffman Street), and extending back of equal width, 105 feet deep to the center line of said vacated Hedwig Court, N.E., be the same more or less, but subject to all legal highways.

Section 11. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-096 as more fully described below, to Cleveland Municipal School District.

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

P. P. No. 107-06-096

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 186 in Joseph Hoffman's Posen Subdivision of part of Original One

Hundred Acre Lot Nos. 375 and 376, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records and being 30 feet front on the Northerly side of Sowinski Avenue, N.E. (formerly Sowinski Street) and extending back of equal width 100 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to zoning ordinances, if any.

Section 13. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-038 as more fully described below, to Cleveland Municipal School District.

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

P. P. No. 107-06-038

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 100 on the Posen Subdivision of part of Original One Hundred Acre Lot No. 375, a Re-Subdivision of Sublot Nos. 1 to 17 inclusive of the Oak Grove Allotment of part of Original One Hundred Acre Lot No. 376, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records, and being 30 feet front on the Northerly side of Kosciuszko Avenue, N.E. (formerly Hoffman Street), and extending back of equal width 99 feet as appears by said plat, be the same more or less, but subject to all legal highways.

Section 15. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-037 as more fully described below, to Cleveland Municipal School District.

Section 16. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-06-037

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot Nos. 101 and 102 in Posen's Subdivision of part of Original One Hundred Acre Lot Nos. 375 and 376, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Northerly line of Kosciuszko Avenue, N.E. (formerly Hoffman Avenue), at its point of intersection with the Westerly line of East 87th Street, (formerly Gloyd Street) as dedicated by plat recorded in Volume 25 of Maps, Page 6 of Cuyahoga County Records; thence Northerly along said Westerly line of East 87th Street 45 feet to the Southeast corner of land conveyed to Julian Prall and Katie Prall by deed dated October 13, 1923, and recorded in Volume 2958, Page 31 of Cuyahoga County Records; thence Westerly along the Southerly line of land so conveyed to Julian Prall and Katie Prall, 110 feet to a point 65/100 feet Easterly, (measured at right angles) from the

Westerly line of said Sublot No. 102; thence Southerly parallel with the Westerly lines of said Sublot Nos. 102 and 101, 45 feet to said Northerly line of Kosciuszko Avenue, N.E.; thence Easterly along said Northerly line of Kosciuszko Avenue, N.E. 110 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Section 17. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-082 as more fully described below, to Cleveland Municipal School District.

Section 18. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-06-082

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 113 in the Joseph Hoffman's "Posen" Subdivision of a part of Original One Hundred Acre Lot Nos. 375 and 376, and a Re-Subdivision of Sublot Nos. 1 to 17, of the Oak Grove Allotment, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records, and being 30 feet front on the Southerly side of Sowinski Avenue N.E., and extending back of equal width 105 feet to the center line of Hedeig Court, N.E. (now vacated), as appears by said plat, be the same more or less, but subject to all legal highways.

Section 19. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-089 as more fully described below, to Cleveland Municipal School District.

Section 20. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-06-089

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 106 and the Westerly one-half of a 10 foot wide alley, vacated by Ordinance No. 916-58, passed April 28, 1958, as shown by Joseph Hoffman's Posen Subdivision of part of Original One Hundred Acre Lot No. 375, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records.

Said Sublot No. 106 and portion of vacated alley forming a parcel of land being 35 feet front on the Southerly side of Sowinski Avenue, N.E., and extending back of equal width 99 feet deep on the Westerly line, having a broken Easterly line about 89 feet deep and an irregular line in the rear along Hedwig Court, N.E., (12 feet wide), as appears by said plat, be the same more or less, but subject to all legal highways.

Section 21. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No. 107-06-034 as more fully described below, to Cleveland Municipal School District.

Section 22. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 107-06-034

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot Nos. 105 and 105-1/2 in the Posen Subdivision of part of Original One Hundred Acre Lot Nos. 375 and 376, as shown by the recorded plat in Volume 20 of Maps, Page 29 of Cuyahoga County Records, and together forming a parcel of land, bounded and described as follows:

Beginning on the Southwesterly line of Ansel Road, N.E., at the Southeasterly corner of said Sublot No. 105; thence Westerly along the Southerly line of said Sublot No. 105, 84.45 feet to a point distant Easterly measured along said Southerly line, 28.50 feet from the Southwesterly corner of said Sublot No. 105; thence Northerly parallel with the Westerly line of said Sublot Nos. 105 and 105-1/2 to a point on the Southerly side of Sowinski Avenue, N.E., distant Easterly, measured along said Southerly line 28.50 feet from the Northwesterly corner of said Sublot No. 105-1/2; thence Easterly along the Southerly line of Sowinski Avenue, N.E., 37.58 feet to the Northeasterly corner of said Sublot No. 105-1/2; thence Southeasterly along the Southwesterly side of Ansel Road, 90.92 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 22. 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 23. 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 24. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 25. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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

FIRST READING EMERGENCY RESOLUTIONS REFERRED

Res. No. 702-05.

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

An emergency resolution declaring the intention to vacate a portion of Sector Avenue, Belmont Avenue, Elmwood Avenue, and West 120th Street.

Whereas, this Council is satisfied that there is good cause to vacate a portion of Sector Avenue, Belmont Avenue, Elmwood Avenue, and West 120th Street, as described; and

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

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

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

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio and known as being all that portion of Sector Avenue extending Westerly from West 117th Street to West 121st Street, all that portion of Belmont Avenue extending Westerly from West 117th Street to West 120th Street, all that portion of Elmwood Avenue extending Westerly from West 117th Street to West 121st Street and all that portion of West 120th Street extending Southerly from Sector Avenue to the Northerly L.A. line of I-90.

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

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

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

Res. No. 703-05.

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

An emergency resolution declaring the intention to vacate a portion of Fidelity Avenue S.W.

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

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

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

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

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio and known as being part of Original Brooklyn Township Lot No. 6, also known as being part of Bosworth Heights Subdivision as shown in Volume 31, Page 2 of Cuyahoga County Map Records (C.C.M.R.) and more fully bounded and described as follows:

Beginning at the intersection of the centerlines of Fidelity Avenue S.W. (60 feet wide) with Bosworth Road S.W. (100 feet wide);

thence North 60° 26' 55" East along the centerline of Fidelity Avenue, as aforesaid, 306.73 feet to a point of curvature;

thence North 29° 33' 05" West, 30.00 feet to a point on the Northerly right-of-way of Fidelity Avenue, as aforesaid, and the Principal Place of Beginning of a parcel of land herein described;

thence North 60° 26' 55" East, 73.66 feet to a point;

thence Southerly 57.05 feet along the arc of a curve deflecting to the left having a radius of 122.84 feet and a chord of 56.54 feet which bears South 36° 26' 46" East to a point;

thence Northwesterly 104.43 feet along the arc of a curve deflecting to the left having a radius of 85.72 feet and a chord of 98.09 feet which bears North 84° 39' 06" West to the Principal Place of Beginning and containing 0.0210 acres of land.

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

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

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

FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED

Ord. No. 719-05.

By Council Members Brady and Westbrook.

An emergency ordinance to change the name of ball diamond number one at Thrush Park to Ralph J. Lukich Ball Diamond.

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

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

Section 1. That ball diamond number one at Thrush Park be named Ralph J. Lukich Ball Diamond, and that the Director of Parks, Recreation and Properties is authorized and directed to take the necessary action to affect said name change and to post the proper signs at said ball diamond.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council,

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

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

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

Ord. No. 726-05.

By Council Member Coats.

An emergency ordinance authorizing the Director of Community Development to enter into an agreement with Northeast Neighborhood Development Corporation to promote neighborhood stability and sustainability through the use of Ward 10 Neighborhood Equity Funds.

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

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

Section 1. That the Director of Community Development is authorized to enter into an agreement with Northeast Neighborhood Development Corporation for specific services including monitoring and tracking complaints, providing referrals to citizens that may be seeking assistance from city and county agencies.

Section 2. That the cost of said contract shall be in an amount not to exceed \$33,500 and shall be paid from Fund No. 10 SF 166.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

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.

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. 727-05.

By Council Members Britt, Cimperman and Zone.

An emergency ordinance authorizing the Director of Community Development to enter into an agreement with Cleveland Public Theatre for offering opportunities for youth to grow in areas of academics, life skills, and job skills through the use of Wards 6, 13, 17 Neighborhood Equity Funds.

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

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

Section 1. That the Director of Community Development is authorized to enter into an agreement with Cleveland Public Theatre for offering opportunities for youth to grow in areas of academics, life skills, and job skills.

Section 2. That the cost of said contract shall be in an amount not to exceed \$17,500 and shall be paid from Fund No. 10 SF 166.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

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.

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. 728-05.

By Council Member Gordon.

An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to the Cleveland Zoological Society to stretch a banner at West 25th Street and the Wildlife Way intersection for the period from June 20, 2005 to July 20, 2005, inclusive, publicizing the Huntington Bank Twilight at the Zoo.

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

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

Section 1. That notwithstanding the provision of Section 623.13 of the Codified Ordinances, of Cleveland, Ohio, 1976, the Director of the Department of Public Service is hereby authorized and directed to issue a permit to the Cleveland Zoological Society to stretch a banner at West 25th Street and the Wildlife Way intersection for the period from June 20, 2005 to July 20, 2005, inclusive, publicizing the Huntington Bank Twilight at the Zoo. 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 banner and said banner shall be removed promptly upon the expiration of said permit.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force

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

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. 729-05.

By Council Member Zone.

An emergency resolution objecting to a New C1 Liquor Permit at 3224 West 73rd Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for a New C1 Liquor Permit at Hanah Shihadeh, 3224 West 73rd Street, Cleveland, Ohio 44102, Permanent Number 8087286; and

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

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

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

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

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

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

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

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

Section 1. That Council does hereby record its objection to a New C1 Liquor Permit at Hanah Shihadeh, 3224 West 73rd Street, Cleveland, Ohio 44102, Permanent Number 8087286; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies

of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

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

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

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

Res. No. 740-05.

By Council Members White, Reed, Pierce Scott, Sweeney, Brady, Westbrook, Polensek, Zone, Cimperman and Conwell.

An emergency resolution expressing this Council's appreciation of the Cleveland Realist Association's dedication and service to Cleveland residents and encouraging the Departments of Community Development and Economic Development to partner with the Cleveland Realist Association in efforts to promote homeownership in the City.

Whereas, the Cleveland Realist Association, a member of the Ohio Realist Association, works with both buyers and sellers of property; and

Whereas, the Cleveland Realist Association's dedication and service to Cleveland residents is appreciated; and

Whereas, the Cleveland Realist Association is a partner in rehabilitating neighborhoods; and

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

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

Section 1. That this Council is appreciative of the Cleveland Realist Association's dedication and service to Cleveland residents and encourages the Departments of Community Development and Economic Development to partner with the Cleveland Realist Association in efforts to promote homeownership in the City.

Section 2. That the Clerk of Council is requested to transmit a copy of this resolution to Myrdred Boston Howell, Cleveland Realist Association President.

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

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

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

SECOND READING EMERGENCY ORDINANCES PASSED

Ord. No. 2106-04.

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

An emergency ordinance authorizing the Director of Public Service to enter into one or more contracts with C.C.G. Systems, Inc. for professional services necessary to provide software maintenance for the Fleet Management Information System.

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

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

Ord. No. 2294-04.

By Council Members Coats, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to apply for and accept a Water Supply Revolving Loan Account loan to provide funding for the Baldwin Rapid Mix/Flocculation/Sedimentation Project; determining the method of making the public improvement of constructing and installing the improvements; and authorizing the Director of Public Utilities to enter into one or more public improvement contracts for the making of the improvement.

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

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

Ord. No. 2295-04.

By Council Members Polensek, Coats, Cimperman and Jackson (by departmental request).

An emergency ordinance determining the method of making the public improvement of constructing and installing indoor and outdoor improvements to the Nottingham Water Works Facility; and authorizing the Director of Public Utilities to enter into one or more public improvement contracts for the making of the improvement.

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

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

Ord. No. 240-05.

By Council Member O'Malley.

An emergency ordinance designating William Cullen Bryant Elementary School as a Cleveland Landmark.

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

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

Ord. No. 241-05.

By Council Member Brady.

An emergency ordinance designating The Lorain Medical Building as a Cleveland landmark.

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

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

Ord. No. 265-05.

By Mayor Campbell.

An emergency ordinance authorizing the Director of Finance to enter into an agreement with Holland & Knight LLP for Washington lobbying services for the City of Cleveland.

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

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 1.

Those voting yea: Council Members Jackson, Brady, Britt, Cimperman, Cintron, Coats, Conwell, Gordon, Johnson, Kelley, Lewis, Pierce Scott, Polensek, Rybka, Sweeney, Westbrook, White and Zone.

Those voting nay: Council Member Reed.

Absent: Council Members Dolan and Jones.

Ord. No. 266-05.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing payment of membership dues of the City of Cleveland in various professional organizations.

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

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

Ord. No. 377-05.

By Council Member Dolan.

An emergency ordinance designating John Marshall High School as a Cleveland Landmark.

Approved by Directors of City Planning, Commission, Law; Passage recommended by Committee on City Planning.

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

Ord. No. 413-05.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of deicing chemicals, for the various divisions of the Department of Port Control, for a period of two years.

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

1. In the title, line 5, strike ", for a period of two years." and insert a period.

2. In Section 1, line 3, strike "for a two-year period" and insert "for

a period of one or two years"; and at the end, add "The Director of Port Control is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Port Control by comparing the bids received for both terms."

Amendments agreed to.

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. 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. 414-05.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the procurement by one or more requirement contracts of the rental of snow removal equipment and heavy-duty equipment with operators for the various divisions of the Department of Port Control, for a period not to exceed two years.

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

1. In the title, lines 6 and 7, strike "for a period not to exceed two years." and insert a period.

2. In Section 1, line 3, strike "for the period not to exceed two years" and insert "for a period of one or two years"; and at the end, add "The Director of Port Control is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Port Control by comparing the bids received for both terms."

Amendments agreed to.

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. 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. 415-05.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials necessary to maintain or replace exterior landscaping and other site landscaping for the various divisions of the Department of Port Control.

Approved by Directors of Port Control, Finance, Law; Passage recommended by Committees on Aviation and Transportation, Finance.

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

Ord. No. 463-05.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of bunker gear suits, for the Department of Port Control, for a period not to exceed two years.

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

1. In the title, lines 4 and 5, strike "for a period not to exceed two years." and insert a period.

2. In Section 1, line 3, strike "for the period not to exceed two years" and insert "for a period of one or two years"; and at the end, add "The Director of Port Control is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Port Control by comparing the bids received for both terms."

Amendments agreed to.

The rules were suspended. Yeas 19. Nays 0. Read second time. Read third time in full. 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. 473-05.

By Council Members Westbrook, White, Gordon, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to purchase properties for future redevelopment known as Third Project Apartments at 9830 Denison Avenue and Aftercare Resource Center, located at 9216 Miles Park Avenue for the Department of Community Development; authorizing the Commissioner of Purchases and Supplies to convey the properties to Emerald Development & Economic Network, Inc., also known as EDEN, Inc.; and authorizing an Agreement between the City and the Redeveloper.

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

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

Ord. No. 549-05.

By Council Member Jackson (by departmental request).

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

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

The rules were suspended. Yeas 19. Nays 0. Read second time. Read

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

Ord. No. 551-05.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of telecommunications network services, equipment, peripheral ancillary devices, and maintenance, for the Division of Information Technology and Services, Department of Finance, for a period of one year with two options to renew for additional one-year terms.

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

1. In the title, at the end, strike the period and insert: "; and to extend Contract Nos. 61149, 61150, 61151 and 61152 with SBC, through its appropriate divisions, for telecommunication network services, equipment, peripheral ancillary devices, and maintenance."

2. In Section 2, line 1, strike "costs of the contract or contracts" and insert "costs of the contract or contracts or extensions authorized by this ordinance shall not exceed \$3,700,000 annually and".

3. Insert new Sections 2 to read as follows:

"Section 2. That the Director of Finance is authorized to extend Contract Nos. 61149, 61150, 61151, and 61152 with SBC, through its appropriate divisions, under the same terms and conditions, until the time the City enters into new contracts for telecommunication network services, equipment, peripheral ancillary devices, and maintenance under Section 1 of this ordinance."

4. Renumber existing Sections 2 and 3 to new "Section 3" and "Section 4".

5. Insert new Sections 5 and 6 as follows:

"Section 5. That the Director of Finance shall report to this Council annually on the contracts or extensions entered into under the authority of this ordinance, and on the overall progress of implementation of the City's IT strategic priorities.

Section 6. That strategic priorities adopted by the City of Cleveland IT Strategic Council that concern the procurement of equipment or services authorized to be purchased by this ordinance shall be provided by the Director of Finance to this Council for placement in legislative File No. 551-05-A."

6. Renumber existing Section 4 to new "Section 7".

Amendments agreed to.

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

SECOND READING ORDINANCES PASSED

Ord. No. 133-05.

By Council Member Rybka.

An ordinance changing the zoning of a parcel of land on the north side of Hinde Avenue from a Two Family Residential District, a 'B' Area Dis-

trict and a '1' Height District to a General Retail Business District, a 'C' Area District and a '2' Height District (Map Change No. 2146 Sheet No. 6).

Approved by Directors of City Planning Commission, Law; Passage recommended by Committee on City Planning.

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

Ord. No. 294-05.

By Council Member Polensek.

An ordinance establishing the Waterloo Community Entertainment District (CED) (Map Change No. 2147, Sheet No. 7).

Approved by Directors of City Planning Commission, Law; Passage recommended by Committee on City Planning.

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

Ord. No. 592-05.

By Council Member Brady.

An ordinance to change the zoning of parcels on the west side of West 117th Street between Western Avenue and Interstate 90 from Semi-Industry and One Family to General Retail Business (Map Change No. 2149, Sheet 2).

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

1. In the title, line 5, after "Business" insert "and a portion of that area from a One-Family to General Industry".

2. In Section 1, strike lines, 10, 11, 12, and 13 in their entirety and insert the following:

"**Thence Easterly along said Northerly line to its intersection with the Northerly prolongation of the Westerly line of a parcel conveyed to Ida Handy by Certificate of Transfer dated February 21, 1997 and recorded in Volume 97-1483, Page 38 of Cuyahoga County Records;**

Thence Southerly to its intersection with the Northerly line of said parcel as conveyed to Ida Handy as aforesaid;

Thence Easterly along said Northerly line to the place of beginning."

3. Insert new Section 2 to read as follows:

"**Section 2. That the Use District of land bounded and described as follows:**

Beginning in the centerline of W. 117th Street (80 feet wide) at its intersection with the Easterly prolongation of the Northerly line of a parcel of land conveyed to Ida Handy by Certificate of Transfer dated February 21st, 1997 and recorded in Volume 97-1483, Page 38 of Cuyahoga County Records;

Thence Southerly along said centerline to its intersection with the centerline of Interstate 90;

Thence Southwesterly along the centerline of Interstate 90 to its intersection with the centerline of W. 121st Street (50 feet wide);

Thence Northerly along the centerline of W. 121st Street to its intersection with the Westerly prolongation of the Northerly line of a parcel conveyed to Ida Handy by Certificate of Transfer dated February 21st, 1997 and recorded in Volume

97-1483, Page 42 of Cuyahoga County Records;

Thence Easterly along said Northerly line and its Easterly prolongation, to its intersection with the Northerly prolongation of the Westerly line of West 118th Place (14 feet wide);

Thence Southerly along said prolongation to its intersection with the Northerly line of said parcel conveyed to Ida Handy by Certificate of Transfer dated February 21st, 1997 and recorded in Volume 97-1483, Page 38 of Cuyahoga County Records;

Thence Easterly along said Northerly line to the place of beginning and as defined on the attached map as the "Area to be Rezoned General Industry" is changed to General Industry."

4. Renumber existing Sections 2 and 3 to new "Section 3" and "Section 4".

Amendments agreed to.

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

LAID ON THE TABLE

Ord. No. 587-05.

By Council Member Britt.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Cedar Avenue and East 79th Street to Lindsey Dozanti and Daniel Dozanti.

Without objection, Ordinance No. 587-05 was relieved of further consideration of all committees and laid on the table pursuant to the Rules of Council.

The rules were suspended. Yeas 19. Nays 0. Ordinance No. 587-05 Laid on the table.

MOTION

By Council Member Sweeney, seconded by Council Member Reed and unanimously carried that the absence of Council Members Michael A. Dolan and Joseph T. Jones, be and is hereby authorized.

MOTION

The Council Meeting adjourned at 8:27 p.m. to meet on Monday, April 25, 2005 at 7:00 p.m. in the Council Chambers.



City Clerk, Clerk of Council

THE CALENDAR

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

NONE

682

BOARD OF CONTROL

April 13, 2005

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, April 13, 2005, at 10:30 a.m. with Acting Mayor Beasley presiding.

Present: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Absent: None.

Others: Jim Hardy, Commissioner, Purchases and Supplies.

Collette Appolito, Director, Office of Equal Opportunity.

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

Resolution No. 169-05.

By Director Baker.

Resolved by the Board of Control of the City of Cleveland, that pursuant to Section 101 of the Charter, Section 181.19 of the Codified Ordinances of the Codified Ordinances of Cleveland, Ohio 1976, and Resolution No. 921-52, adopted by the Board of Control on November 26, 1952 the report of the Commissioner of Purchases and Supplies for the sale of scrap, personal property, and by-products during the month of March, 2005 in the amount of \$14,682.73, hereto attached and made a part hereof, is hereby received, approved and ordered filed.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams. Nays: None.

Absent: None.

Resolution No. 170-05.

By Director Mok.

Whereas, under Ordinance No. 990-04, passed by Cleveland City Council on June 7, 2004, and Board of Control Resolution No. 64-05 adopted February 9, 2005, the City, through its Director of Port Control, entered into City Contract No. 64128 with Ross & Baruzzini Transportation Services, Inc. to provide professional services for the design and installation of a security command center at Cleveland Hopkins International Airport; and

Whereas, on March 8, 2004, Ross & Baruzzini Transportation Services, Inc. requested the City's consent to the merger of Ross & Baruzzini Transportation Services, Inc. and Ross & Baruzzini Facilities to form Ross & Baruzzini, Inc. and assignment of all Ross & Baruzzini Transportation Services, Inc.'s obligations and interests under City Contract No. 64128 to Ross & Baruzzini, Inc., effective December 31, 2004; and

Whereas, Ross & Baruzzini, Inc. proposes to undertake all of Ross & Baruzzini Transportation Services, Inc.'s obligations under City Contract No. 64128 and represents that such merger and assignment shall not waive any of Ross & Baruzzini

Transportation Services, Inc.'s obligations or the City's rights; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that this Board acknowledges and consents to the merger of Ross & Baruzzini Transportation Services, Inc. with Ross & Baruzzini Facilities effective December 31, 2004 and to the assignment of City Contract No. 64128 from Ross & Baruzzini Transportation Services, Inc. to Ross & Baruzzini, Inc.

Be it further resolved that the Director of Port Control is authorized to execute all documents and do all other things necessary to effect the consent to the merger and to the assignment of City Contract No. 64128.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Director Ricchiuto, Acting Director Smith, Directors Ronayne, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Directors Carroll and Rush.

Resolution No. 171-05.

By Director Ricchiuto.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Brooklyn Tractor and Mower, Inc. for an estimated quantity of various mower and cutting equipment parts and labor, items 1, 2, 4, 5, 7, 9, 11, 13, 14, 17, 18, 19, 20, 21, 23, 24, 25, 26 and 27, for the Division of Motor Vehicle Maintenance, Department of Public Service, for two (2) years beginning with the date of execution of a contract, received on February 9, 2005, under the authority of Ordinance No. 927-04, passed by the Council of the City of Cleveland on August 11, 2004, which on the basis of the estimated quantity would amount to Six Hundred Four Thousand and no/100 Dollars (\$604,000.00) (Net 30), is affirmed and approved as the lowest and best bid, and the Director of Public Service is 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. 154103

which shall be certified against the contract in the sum of Thirty One Thousand and 00/100 Dollars (\$31,000.00).

The 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 the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 172-05.

By Director Ricchiuto.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of West Shore New Holland, Inc. for an estimated quantity of

various mower and cutting equipment parts and labor, item 3, for the Division of Motor Vehicle Maintenance, Department of Public Service, for two (2) years beginning with the date of execution of a contract, received on February 9, 2005, pursuant to the authority of Ordinance No. 927-04, passed by the Council of the City of Cleveland on August 11, 2004, which on the basis of the estimated quantity would amount to Two Thousand and no/100 Dollars (\$2,000.00) (Net), is affirmed and approved as the lowest and best bid, and the Director of Public Service is 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. 154105

which shall be certified against such contract in the sum of Two Thousand and no/100 Dollars (\$2,000.00).

The 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 the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 173-05.

By Director Ricchiuto.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Sill's Motor Sales, Co. for an estimated quantity of various mower and cutting equipment parts and labor, items 10 and 15, for the Division of Motor Vehicle Maintenance, Department of Public Service, for two (2) years beginning with the date of execution of a contract, received on February 9, 2005, pursuant to the authority of Ordinance No. 927-04, passed by the Council of the City of Cleveland on August 11, 2004, which on the basis of the estimated quantity would amount to Ninety Thousand and no/100 Dollars (\$90,000.00) (2.2% Net 30), is affirmed and approved as the lowest and best bid, and the Director of Public Service is 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. 154104

which shall be certified against such contract in the sum of Five Thousand and no/100 Dollars (\$5,000.00).

The 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 the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 174-05.

By Director Ricchiuto.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Tire Distributors, Inc. for an estimated quantity of tire recapping, groups A and B (all items), for the Division of Motor Vehicle Maintenance, Department of Public Service, for two years beginning with the later of the date of execution of a contract or April 25, 2005, received on March 9, 2005, under the authority of Ordinance No. 773-04, passed by the Council of the City of Cleveland on May 17, 2004, which on the basis of the estimated quantity would amount to Two Hundred Seventy Seven Thousand Nine Hundred Eighty Eight and 60/100 Dollars (\$277,988.60) (1%), is affirmed and approved as the lowest and best bid, and the Director of Public Service is 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. 154132

which shall be certified against the contract in the sum of Fifty Thousand and no/100 Dollars (\$50,000.00).

The requirement contract shall further provide that the Contractor shall furnish the remainder of the City's requirements for the goods and/or services, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: None.

Resolution No. 175-05.

By Director Ronayne.

Whereas, Ordinance No. 2151-03, passed by the Council of the City of Cleveland on December 15, 2003, and Resolution No. 89-05, adopted by this Board on February 23, 2005, authorized the City to enter into an agreement with Behnke Associates, Inc. ("Consultant") for professional services necessary to complete improvements to the Morgana Park Multipurpose Field and Track Complex, for a total cost of \$228,183.00; and

Whereas, Ordinance No. 2151-03 was previously amended by Ordinance No. 1308-04, passed August 11, 2004, and Ordinance No. 2365-04, passed by the Council of the City of Cleveland January 24, 2005, to include an additional fund source to design and construct improvements to the Morgana Park Multipurpose Field and Track Complex; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that Resolution No. 89-05, adopted by this

Board on February 23, 2005, authorizing the City to enter into an agreement with Behnke Associates, Inc. for professional services necessary to complete improvements to the Morgana Park Multipurpose Field and Track Complex, is amended by inserting after "Ordinance No. 2151-03 passed by the Council of the City of Cleveland December 15, 2003," "as amended by Ordinance No. 1308-04, passed August 11, 2004, and Ordinance No. 2365-04, passed January 24, 2005".

Be it further resolved that all other provisions of Resolution No. 89-05 not expressly amended by this resolution shall remain unchanged and in full force and effect.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.
Nays: None.
Absent: None.

Resolution No. 176-05.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 103-23-045, located at East 39th Street under said Land Reutilization Program; and

Whereas, Ordinance No. 238-05 passed March 28, 2005, authorized the sale of said parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Burten, Bell, Carr Development, Inc. has proposed to the City to purchase and develop said parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 238-05 passed March 28, 2005, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Burten, Bell, Carr Development, Inc. for the sale and development of Permanent Parcel No. 103-23-045, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcel shall be \$100.00, which amount is hereby determined to be not less than the fair market value of said parcel for uses in accordance with the Land Reutilization Program.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.
Nays: None.
Absent: None.

Resolution No. 177-05.

By Director Williams.

Be it resolved by the Board of Control of the City of Cleveland that the Board of Control Resolution No. 505-04, adopted September 8, 2004,

under the authority of Ordinance No. 252-04, passed April 26, 2004, approving the bid of GETCO, Inc. as the lowest and best for an estimated quantity of labor and materials necessary to remove underground storage tanks, for the Department of Building and Housing, is amended by deleting "Requisition 147101" (in the amount of \$212,000.00) and substituting Requisition No. 147212 (in the amount of \$10,000.00).

Be it further resolved that all other provisions of said Resolution No. 505-04 not expressly amended shall remain in full force and effect.

Yeas: Acting Mayor and Director Beasley, Acting Directors Schneider, Nielson, Szabo, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.
Nays: None.
Absent: None.

JEFFREY B. MARKS,
Secretary

CIVIL SERVICE NOTICES

General Information

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

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

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

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

REYNALDO GALINDO,
President

SCHEDULE OF THE BOARD OF ZONING APPEALS

MONDAY, MAY 2, 2005

9:30 A.M.

Calendar No. 05-67: 2125 East 89th Street (Ward 6)

Antioch Baptist Church, owner c/o Greg Harris, agent, appeals to install one free-standing, V-Shaped, illuminated church bulletin board, consisting of two 5' wide x 8' long, single face signs, to be situated on a 170' x 202' corner lot in a Local Retail Business District on the northeast corner of East 89th Street

and Cedar Avenue at 2125 East 89th Street; the proposed sign faces exceed the limitations of Section 350.05(a)(1)A, which specify that the measurement standards allow no more than a 3' separation between the two sign faces in a parallel arrangement; and Section 350.08(b) requires that the signs be located and designed to maintain a clear view between 2.5' and 8' above grade in a triangle formed by intersecting street right-of-way lines and a line 30' from the point where the street lines intersect; and two signs equaling 80 s/f are proposed where only one 50 s/f sign is allowed, according to Section 350.14(b) of the Codified Ordinances.

Calendar No. 05-68: 1033 Ivanhoe Road (Ward 11)

Allen Harrison, owner, appeals to expand and include outside storage with the use of an existing 27' x 71' two-story mixed use building, situated on a 40' x 150' lot in a Local Retail Business District on the north side of Ivanhoe Road at 1033 Ivanhoe Road; contrary to Section 343.01, the proposed expansion is not allowed in a Local Retail District and is first permitted in a Semi-Industry District under Section 345.03(c)(33), provided that any material stored on an unclosed premises shall be surrounded by a substantial 7' high wall or screened fence around the property lines; and a 10' wide transition strip is required at the rear of the property where it abuts a Two-Family District, as stated in Section 352.09 of the Codified Ordinances.

Calendar No. 05-69: 2061 West 10th Street (Ward 13)

Bosan's Restaurant, Inc., owner c/o Ricardo Sandoval, appeals to expand by adding an outdoor patio and a fence to the use of an existing restaurant in a 24' x 74' two-story mixed use building, situated on an approximate 101' x 95' corner lot in a Multi-Family District on the northeast corner of West 10th Street and Thurman Avenue at 2061 West 10th Street; the proposed addition to a nonconforming use requires the Board of Zoning Appeals approval as stated in Section 359.01 of the Codified Ordinances.

Calendar No. 05-70: 3353 West 31st Street (Ward 14)

Cleveland Housing Network, owner c/o Matt Berges and Sutton Builders, appeal to erect an 18' x 36' two-story frame, single family residence on a 32' x 160' lot in a Two-Family District on the east side of West 31st Street at 3353 West 31st Street; as proposed, there is only a 6.4' distance provided where no building shall be erected less than 10' from a main building on an adjacent lot, as stated in Section 357.09 of the Codified Ordinances.

Calendar No. 05-72: 1427-35 East 39th Street (Ward 13)

Charles Tanko, owner, appeals to erect a 38' x 61' metal accessory garage on an 80' x 166' lot in a Semi-Industry District on the east side of East 39th Street at 1427-35 East 39th Street; contrary to Section 337.23(7)A, the proposed square footage of 2,280 s/f exceeds the

1,356.6 s/f that is allowed; and contrary to Section 337.23(a), a 4' distance is provided where 10' is required from a building on an adjacent lot; and as proposed, the accessory garage is a 17' height, contrary to 15' or the maximum height allowed, as stated in Section 353.05 of the Codified Ordinances.

Calendar No. 05-73: 1859 West 25th Street (Ward 14)

Heil Building, Inc. owner c/o Chris Dewey, agent, appeal for a change of use to provide live entertainment in an existing mixed use two-story brick building, situated on a corner lot in a General Retail Business District on the southeast corner of West 25th Street and Bridge Avenue at 1859 West 25th Street, where previously in Calendar No. 03-293, the Board of Zoning Appeals, granted a variance to allow three dwelling units, one store and a bar on November 17, 2003; and the proposed amusement use is contrary to Sections 347.12(a)(1) and (2), with only a 33' distance instead of the 500' separation that is required from a residential district and that no such use may be established within 500' of another; and 55 accessory off-street parking spaces are required for the proposed use, according to Section 349.04(c) of the Codified Ordinances.

Secretary

REPORT OF THE BOARD OF ZONING APPEALS

MONDAY, APRIL 18, 2005

At the meeting of the Board of Zoning Appeals on Monday, April 18, 2005, the following appeals were heard by the Board:

The following appeals were **Approved:**

Calendar No. 05-61: 6008 Frontier Avenue

Dorothy Wittal appealed to erect a handicap ramp to the front porch of a one family dwelling in a Two-Family District.

Calendar No. 05-31: 7007 Quincy Avenue

Advance Iron, Inc. appealed to install and maintain 160' of corrugated metal fence and barbed wire across the frontage of a triangular shaped corner lot in a General Industry District.

Calendar No. 04-321: 13528-30 Miles Avenue

Marvin Butler appealed to establish use as wrecking, storage and auto repair in a Semi-Industry District; with conditions.

The following appeal was **Denied:**

Calendar No. 05-60: 3940 West 129th Street

Carlos Rodriguez appealed to install a 4' high chain link fence at the front side yards and across the front of a one family dwelling in an A1 One-Family District.

The following appeal was **Withdrawn:**

Calendar No. 05-63: 4422 West 143rd Street

Donovan Francis appealed to expand a one family dwelling to include a Type A Day Care.

The following appeal was **Dismissed:**

Calendar No. 05-62: 1422 West 48th Street

Michelle Wallace appealed to erect a 4' x 22' wolmanized wooden deck to the rear of a one-family dwelling in a Two-Family District.

The following appeals were **Postponed:**

Calendar No. 03-35: 6402 Lansing Avenue postponed to May 16, 2005.

Calendar No. 05-41: 3596 East 131st Street postponed to May 16, 2005.

In Executive Session on April 18, 2005, the following appeals heard by the Board on April 11, 2005 were adopted and approved.

The following appeals were **Approved:**

None.

The following appeals were **Denied:**

Calendar No. 05-57: 6709 Sebert Avenue

Loundia Reed, Jr. appealed to establish a Type A Day Care in a one family dwelling in a Two-Family District.

Calendar No. 05-58: Appeal of Zulfikar A. Gill

Zulfikar A. Gill appealed from the suspension of a City of Cleveland Hack License issued March 8, 2005 by the Commissioner of Assessments and Licenses.

Calendar No. 05-59: 2367 East 63rd Street

Ralph and Valerie Williams appealed to install 77 1/f of 4' high chain link fence across the front and along the front side yards of a one family dwelling in a Multi-Family District.

Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

NO MEETING

PUBLIC NOTICE

NONE

NOTICE OF PUBLIC HEARING

NONE

CITY OF CLEVELAND BIDS

For All Departments

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

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

187.10 Negotiated contracts; Notice required in Advertisement for Bids.

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

WEDNESDAY, APRIL 27, 2005

Fairview Park Site Improvements, for the Division of Research, Planning & Development, Department of Parks, Recreation and Properties, as authorized by Ordinance Nos. 1114-02 and 2151-03, passed by the Council of the City of Cleveland, June 17, 2002 and December 15, 2003, respectively.

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

THERE WILL BE A NON-MANDATORY PRE-BID MEETING THURSDAY APRIL 21, 2005 AT 10:00 A.M., BURKE LAKEFRONT AIRPORT, 1ST FLOOR CONFERENCE ROOM, 1501 NORTH MARGINAL ROAD, CLEVELAND, OHIO 44114.

Daimler Chrysler Vehicle Parts and Labor, for the Division of Motor Vehicle Maintenance, Department

of Public Service, as authorized by Ordinance No. 776-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY** APRIL 21, 2005 AT 2:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.

Employment Access Center Furniture, for the Division of Workforce Development, Department of Economic Development, as authorized by Ordinance No. 424-04, passed by the Council of the City of Cleveland, April 19, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** APRIL 22, 2005 AT 10:00 A.M., 1701 EAST 13TH STREET, CLEVELAND, OHIO 44114.

April 13, 2005 and April 20, 2005

FRIDAY, APRIL 29, 2005

Paper Products, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 2291-04, passed by the Council of the City of Cleveland, January 24, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY** APRIL 21, 2005 AT 2:00 P.M., PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

April 13, 2005 and April 20, 2005

WEDNESDAY, MAY 4, 2005

GMC Medium and Heavy Duty Truck Parts and Labor, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 923-04, passed by the Council of the City of Cleveland, August 11, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING MONDAY** APRIL 25, 2005 AT 2:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.

April 13, 2005 and April 20, 2005

THURSDAY, MAY 5, 2005

Repair and/or Replace Plumbing, Water, Sewer and Gas Lines for Buildings and Property Owned by CPP, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 2289-04, passed by the Council of the City of Cleveland, January 24, 2004.

THERE WILL BE A **MANDATORY PRE-BID MEETING THURSDAY**, APRIL 28, 2005 AT 11:00 A.M., CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

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

Euclid Corridor Areaways and Vault Improvements, for the Division of Engineering and Construction, Department of Public Service, as authorized by Ordinance No. 1815-04, passed by the Council of the City of Cleveland, March 28, 2005.

THERE WILL BE A **REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND OR MONEY ORDER.** THERE WILL BE A **NON-MANDATORY PRE-BID MEETING TUESDAY** APRIL 26, 2005 AT 10:00 A.M., CITY HALL, ROOM #518, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

April 13, 2005 and April 20, 2005

FRIDAY, MAY 20, 2005

Liquid Chlorine, for the Division of Water, Department of Public Utilities, as authorized by Section 129.24 of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** MAY 6, 2005 AT 2:00 P.M., PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

April 13, 2005 and April 20, 2005

WEDNESDAY, MAY 4, 2005

Transfer and Disposal of Bulk Waste — "Contract B", for the Division of Waste Collection and Disposal, Department of Public Service, as authorized by Ordinance No. 360-05, passed by the Council of the City of Cleveland, March 28, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** APRIL 29, 2005 AT 10:00 A.M., DIVISION OF WASTE COLLECTION, 5600 CARNEGIE AVENUE, CLEVELAND, OHIO 44103.

Solid Waste Transfer and Disposal Services — "Contract W", for the Division of Waste Collection and Disposal, Department of Public Service, as authorized by Ordinance No. 361-05, passed by the Council of the City of Cleveland, March 28, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** APRIL 29, 2005 AT 10:00 A.M., DIVISION OF WASTE COLLECTION, 5600 CARNEGIE AVENUE, CLEVELAND, OHIO 44103.

April 20, 2005 and April 27, 2005

THURSDAY, MAY 5, 2005

Direct Haul Contingency Waste Disposal, for the Division of Waste Collection and Disposal, Department of Public Service, as autho-

rized by Ordinance No. 362-05, passed by the Council of the City of Cleveland, March 28, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** APRIL 29, 2005 AT 10:00 A.M., DIVISION OF WASTE COLLECTION, 5600 CARNEGIE AVENUE, CLEVELAND, OHIO 44103.

Transfer and Disposal of Tires — "Contract T", for the Division of Waste Collection and Disposal, Department of Public Service, as authorized by Ordinance No. 364-05, passed by the Council of the City of Cleveland, March 28, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** APRIL 29, 2005 AT 10:00 A.M., DIVISION OF WASTE COLLECTION, 5600 CARNEGIE AVENUE, CLEVELAND, OHIO 44103.

April 20, 2005 and April 27, 2005

FRIDAY, MAY 6, 2005

Disposal of Construction and Demolition Debris Contract "C & D", for the Division of Waste Collection and Disposal, Department of Public Service, as authorized by Ordinance No. 363-05, passed by the Council of the City of Cleveland, March 28, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY** APRIL 29, 2005 AT 11:00 A.M., DIVISION OF WASTE COLLECTION, 5600 CARNEGIE AVENUE, CLEVELAND, OHIO 44103.

April 20, 2005 and April 27, 2005

WEDNESDAY, MAY 11, 2005

Fence Installation & Repair at East 65th Station, for the Division of Streets, Department of Public Service, as authorized by Ordinance No. 1499-04, passed by the Council of the City of Cleveland, August 11, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING TUESDAY** MAY 3, 2005 AT 11:00 A.M., CITY HALL, DIVISION OF STREETS, CONFERENCE ROOM 25, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

April 20, 2005 and April 27, 2005

FRIDAY, MAY 13, 2005

Ready Mix-Concrete, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 550-05, passed by the Council of the City of Cleveland, April 11, 2005.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING TUESDAY** MAY 3, 2005 AT 11:00 A.M., CITY HALL, CONFERENCE ROOM 25, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

April 20, 2005 and April 27, 2005

**Certified MBEs and FBEs
Reporting Period: First Quarter, 2004**

Pursuant to Chapter 187 of the Codified Ordinances of the City of Cleveland, Ohio, listed below are the firms that have been certified as Minority Business Enterprises (MBEs) and Female Business Enterprises (FBEs) by the Mayor's Office of Equal Opportunity during the First Quarter 2005.

| Company | MBE/FBE | Certdate | Description |
|-------------------------------------------------|---------|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Able Contracting Group, Inc. | FBE | 3/21/2005 | Sales, service, installation of fences & guard rails, traffic control products |
| Affordable Demolition & Hauling | MBE | 2/14/2005 | General contractor specializing in demolition and hauling; repaire of sanitary sewers and appurtenances |
| Albrecht Typography & Design | FBE | 1/26/2005 | Graphic design & typography |
| Alpha Omega Chemical Co. | MBE | 2/4/2005 | Mgmt. services: asbestos/lead abatement. Underground storage tank removal. Excavation, hazardous waste removal and hauling. Envirnomental remediation & clean-up; internal demoltion, full service analytical labatory |
| Application Design Consultants | MBE | 3/28/2005 | Computer consulting services, sale of hardware and software as applicable to design; provide systems evaluation |
| Arick's Environmental Management Services, Inc. | MBE | 3/23/2005 | To clean and remove substances such as black mold and asbestos |
| B & R Trucking Co., Inc. | MBE | 3/28/2005 | Dump truck hauling |
| B.B.C. Electric Company | MBE | 1/12/2005 | Electrical contractor |
| BAM Electrical, Inc. | MBE | 3/29/2005 | Electrical contracting: commercial and industrial |
| Barry Booker Trucking | MBE | 3/3/2005 | Trucking: hauling of various materials |
| Bemba K. Jones, PS & Associates | MBE | 3/17/2005 | Surveying and engineering services |
| Big Brown Eyes Productions, Ltd. | MBE/FBE | 3/17/2005 | Photographer |
| Bonnie Banks Design, Inc. | MBE/FBE | 1/4/2005 | Interior design services and consulting: residential and commercial |
| Britesh Bran Construction | MBE/FBE | 2/1/2005 | General contractor specializing in lead abatement, landscaping, carpentry, roofing & rehab renovations |
| C. Barnes Trucking | MBE | 2/28/2005 | Trucking and hauling |
| C.J. Industrial Supply, Inc. | FBE | 1/20/2005 | Industrial supplies: i.e., hardware, fasteners, tools, pipe and fittings, garden, plumbing, etc. |
| Cabinet Concepts, Inc. | FBE | 1/20/2005 | Custom cabintry and millwork |
| Caraballo Custom Home Works, Inc. | MBE | 3/14/2005 | Contractor: painting, plastering, drywall and wallpaper installation |
| Cavotta Landscapers, Inc. | FBE | 2/25/2005 | Landscaper |
| Chagrín Consulting Services, Inc. | FBE | 2/20/2005 | Technology consulting including project management, analysis, development, support and testing |
| Chaves & Associates | FBE | 1/13/2005 | Document control management, contract administration, administrative and secretarial functions |
| CJI, Inc. | FBE | 1/12/2005 | General contractor specializing in commercial and public projects |
| Class Construction, Inc. | MBE/FBE | 1/4/2005 | General contracting specializing in rehab, painting and carpentry |
| Cleveland Group, The | MBE | 2/8/2005 | General contractor specializing in project development and project management |
| Complete Cleaning Service | MBE | 3/22/2005 | Janitorial services |
| Computer Workshop, The | FBE | 3/1/2005 | Software training including seminars, database, web page design, etc. |
| Coniglio Company, The | MBE/FBE | 2/27/2005 | General contractor specializing in renovations; custom cabinets; drywall, plastering, insulation, carpentry, partitions |
| Cooktique | FBE | 3/21/2005 | Catering services |
| Cox & Cox Construction, Inc. | MBE | 3/7/2005 | General contractor specializing in concrete, drywall, painting, carpentry and insulation |
| Creative Business Webs | MBE/FBE | 3/24/2005 | Graphic design and media planning |
| Crosby, O'Brien & Associates Co., LPA | FBE | 1/14/2005 | Legal services |
| CTL Engineering, Inc. | MBE | 2/23/2005 | Consulting engineers, testing, inspection services, analytical laboratories |

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|--------------------------------------------|---------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dan Ray Construction Co., Inc. | MBE | 2/24/2005 | General contractor specializing in utility work, water mains (relining & installation), excavation & concrete work;I soil preparation, seeding, strawing, landscaping |
| Dingus and Daga, Inc. | MBE | 3/31/2005 | Certified public accountants |
| DLZ Ohio, Inc. | MBE | 2/9/2005 | Consulting Architects & Engineers,for civil, mechanical, electrical, industrial, onmental testing, environmental, hydraulics, dams sewers, airports, bridges, subdivision management, construction management |
| Dmytryka Jacobs Engineers, Inc. | MBE | 3/29/2005 | Design, development and implementation of instrumentation & control systems; services include PLC & MMI software design & start-up; control integration |
| Dobb, Inc. | MBE | 1/11/2005 | Elderly and disabled transportation service |
| Dunham & Dunham' s Technologies | MBE | 2/18/2005 | Residential telecommunications including satellites and dish networking programming; installation including poles in concrete base; general contractor specializing in concrete pads, driveways, & walkways |
| E. Horton & Associates | MBE | 1/21/2005 | Real estate appraisal |
| Eagle Fabricators & Erectors, Inc. | FBE | 1/31/2005 | Furnish and erect structural & miscellaneous fabricated steel |
| East-West Construction Co., Inc. | MBE | 3/21/2005 | General contractor, construction management |
| Eden Environmental, Inc. | FBE | 1/16/2005 | Environmental consulting including assessment & remediation, hazardous waste, and asbestos sampling |
| Elite Contracting & Construction Co. | MBE/FBE | 3/22/2005 | General contractor specializing in concrete replacing and install curbs, sidewalks and driveways |
| G.D.B.'s Greenscaping | MBE | 1/27/2005 | Landscaper, snow removal and hauling of materials |
| GAW Enterprises, Ltd. | MBE | 3/14/2005 | Trucking, snow plowing, landscaping |
| General Construction, Inc. | MBE | 3/19/2005 | General contractor specializing in carpentry |
| Glendennis Bed & Breakfast | FBE | 1/15/2005 | Bed and breakfast inn |
| Granger Trucking, Inc. | MBE | 2/19/2005 | Trucking |
| Gratton Building Specialties | FBE | 1/12/2005 | Sale & installation of toilet partitions, washroom accessories & lockers |
| Greater Cleveland Home Inspection Services | MBE | 2/24/2005 | Building/home inspections; provide narrative, conduct relocation inspections; provide radon, carbon monoxide & combustable gas testing |
| H2N Design, Inc. | FBE | 2/22/2005 | Graphic design including corporate identity, publications, annual reports, advertising, website design |
| Haynes Manufacturing Company | FBE | 3/9/2005 | Manufacturer of food grade lubricants |
| HCI, Inc. | MBE | 1/29/2005 | General contractor specializing in commercial and industrial building renovations |
| Heavenly Metals, Inc. | MBE | 3/17/2005 | Contractor: HVAC, I.e., provide & install duct work, furnances and roof top units for residential, commercial & industrial heating & cooling systems |
| Huckabee Masonry, Inc. | MBE | 3/1/2005 | General contractor specializing in masonry work |
| Hunsi Group, Inc. | MBE | 1/19/2005 | General contractor specializing in rehab |
| Insight to Braille, Inc. | MBE | 3/29/2005 | ADA compliant signage and braille consultants on ADA issues |
| Integrated Business Supplies, Inc. | FBE | 3/30/2005 | Computers: hardware, software & supplies, office supplies and employment services |
| Jacobsen Daniels Associates, LLC | MBE | 2/24/2005 | Planning: avaiation, master, land-use & strategic; stakeholder coordination guidance and consulting for technical aviation issues |
| Jazz Mark Management | MBE | 3/22/2005 | General contractor specializing in carepentry & project consultant, rehabs, landscaping, painting |
| Joshua Kim Associates | MBE | 1/21/2005 | Management consulting specializing in human resources, program evaluation, performance measurement, operations improvement, process re-engineering & executive search |
| K.L.E. Construction Company | MBE | 1/28/2005 | General contractor specializing in installation of reinforcement steel, welding & ornamental iron work; concrete work |
| Keeble Construction Co., Inc. | FBE | 3/4/2005 | General contractor specializing in communication towers, installation and maintenance of flag poles, repair of elevated water tanks, all types of high work and repairs |

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|----------------------------------------|---------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Kemron Environmental Services, Inc. | MBE | 1/20/2005 | Environmental testing & analysis; compliance, field sampling, NEPA services, groundwater & wasterwater services, geo probe, engineering services and sampling |
| Kevin L. Penn, Inc. | MBE | 2/27/2005 | Certified public accountant services |
| Knight & Stolar, Inc. | FBE | 1/26/2005 | Landscape architecture |
| L.B. Contractors | MBE | 2/11/2005 | Contractor specializing in drywall & accoustical insulation installation; installation of metal studs, windows, painting, painting, plastering walls |
| Lakco Construction | MBE | 1/24/2005 | General contractor specializing in carpentry and architectural millwork |
| LT Communications, Inc. | MBE | 1/31/2005 | Cabling for phone and computer systems; installation of fiber optic lines |
| M & L Construction | MBE | 3/24/2005 | General contractor specializing in interior demolition, roofing, hauling, cleanouts, concrete |
| M.A.R. Development, Inc. | MBE/FBE | 3/11/2005 | General contractor specializing in rehab |
| Mid-American Consulting Group, Inc. | MBE | 3/11/2005 | Management consulting and information technology services |
| Miles Mechanical, Inc. | MBE | 3/24/2005 | HVAC and mechanical contractor |
| Minerva Consulting, Inc. | MBE/FBE | 1/28/2005 | Community economic development, real estate developer & business development planning including marketing, public relations & research |
| Minority Executive Search, Inc. | MBE | 3/24/2005 | Executive recruiting firm specializing in professional minority and female career placement |
| Mo's Landscaping & Snowplow, Inc. | MBE | 3/28/2005 | Landscaping: design, maintenance and snowplowing |
| Nationwide Protective Service, Inc. | MBE | 3/11/2005 | Security guard provider |
| Netspace Cleveland | MBE/FBE | 1/12/2005 | Complete website services including market demographics, inter-net publications, data storage and retrieval |
| North Electric, Inc. | MBE | 3/4/2005 | Electrical contractor |
| Northeast Masonry & Construction Co. | MBE | 3/17/2005 | General constructor specializing in masonry, concrete, excavation |
| OCS Process Systems | FBE | 3/9/2005 | Engineering and installation of food process systems |
| Office Pro, Inc. | FBE | 2/25/2005 | Secretarial services |
| Omex, Inc. | MBE | 1/13/2005 | General contractor specializing in property rehabilitation and restoration including sewer and concrete repair work; vocational school specializing in construction |
| Pal Construction | MBE | 2/22/2005 | Concrete, painting, carpentry, rehab |
| Pearlrock Mechanical Contractors, Inc. | MBE | 2/2/2005 | Contractor specializing in HVAC: installing and repairing |
| Peggy Brown, Landscape Architect | FBE | 3/29/2005 | Landscape architect |
| Poly Services, Inc. | MBE | 2/28/2005 | Supplier: bonding, wrapping & packaging materials, equipment maintenance (pumps, seals, bearings) for steel mills, material handling equipment & specialty orders |
| Quick Employment LLC | MBE/FBE | 1/27/2005 | Employment services: skilled labor, general labor, medical, office, etc.; pre-employment screening |
| RADCom, Inc. | FBE | 1/30/2005 | Computer programs: technical writing, consulting, user manuals, training; on line information design |
| Ralph C. Tyler, P.E.,P.S., Inc. | MBE | 1/4/2005 | Engineering: civil, electrical, mechanical, rail transit, railroad, structural, transportation; architectural design; surveying and project management |
| Rayner's Inc. dba The Repair Company | FBE | 3/18/2005 | Automobile repairs |
| RC Administrative Services | FBE | 1/27/2005 | Administrative & bookkeeping services |
| Real Conservative Enterprises, Inc. | MBE | 3/26/2005 | General contractor: specializing inrenovations, rehab; installation of GFIs, battery smoke detectors, rough carpentry work; removal & replacement concrete walkds, curbs, aprons |
| Regency Construction Services, Inc. | FBE | 3/23/2005 | Construction management performing estimating, scheduling, construction administration; general contractor including carpentry |
| Resource International, Inc. | FBE | 3/4/2005 | Engineering, geotechnical, testing laboratory, systems design & software, research and development, management services |
| Rittman Inc. dba Mull Iron | MBE | 3/22/2005 | Fabrication & erection of structural, ornamental & misc. steel products |

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|----------------------------------------|---------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| RNR Consulting, LLC | MBE | 1/4/2005 | Management consulting including marketing studies, business process, strategy formulation, IT implementation and operations assessments |
| Road Runners, Inc. | FBE | 2/14/2005 | Courier service |
| Sams Specialty Services, LLC | FBE | 2/1/2005 | Voice mail, cellphones & pagers, including pager repairs |
| Sigma Associates, Inc. | FBE | 3/18/2005 | Engineer/architect consulting for studies, design, construction oversight, operation/maintenance training for infrastructure and facilities |
| Smart Solutions, Inc. | MBE | 1/6/2005 | Computer store: personal computers, networks, peripherals, and support services |
| Solar Systems Networking, Inc. | FBE | 3/24/2005 | Computer networking design and consultant |
| Stat Expeditors, Inc. | FBE | 3/27/2005 | Courier services specializing in medical, payroll and mail services, etc. |
| Strong Tool Company, LLC | MBE | 3/8/2005 | Industrial distribution: abrasives, cutting tools, precision tools, maintenance & tool room supplies; janitorial supplies, safety supplies lubricants |
| Suburban Maintenance Contractors | FBE | 3/29/2005 | Rehab specialized in painting, and small concrete jobs. |
| Tenant Construction Services, Inc. | FBE | 1/25/2005 | General contractor specializing in carpentry, tenant space and renovations |
| Thoro-Clean, Inc. | MBE | 2/15/2005 | Cleaning services for commercial & new construction including window washing, carpet cleaning, pressure washing, brick restoration and fleet washing |
| Top Gun Lawn Sprinklers, Inc. | MBE | 2/9/2005 | Lawn sprinkler installation and snow removal services |
| Top Quality Cleaning | FBE | 2/16/2005 | New Construction Cleaning |
| Townsend Learning Centers | FBE | 1/26/2005 | Learning center providing supplementary education, office skills and related services |
| T-Square Builders & Construction, Inc. | MBE | 2/10/2005 | General contractor specializing in carpentry and rehabilitation |
| United International Consultants, Inc. | MBE | 3/24/2005 | Sanitary & environmental engineering consulting services; operation and maintenance manuals preparation |
| United Ready Mix | MBE | 1/14/2005 | Manufacture and distribute ready mix concrete |
| VTP Electric, Inc. | MBE | 3/22/2005 | Residential and commercial electrical installation |
| Wilkerson & Associates, LPA | MBE | 1/27/2005 | Legal services |
| Women on Wheels, Inc. dba W.O.W., Inc. | MBE/FBE | 2/16/2005 | Commercial cleaning services including fleet washing, pressure and hand wash |

**MBEs/FBEs DELETED FROM OEO'S DATABASE
First Quarter, 2005**

The attached firms, that were previously certified as a MBE and/or FBE have been dropped from the MBE/FBE database. The firms listed were sent at least two (2) letters and elected not to re-certify for various reasons, including going out of business and changes in geographic location.

| MBE/FBE | Company |
|---------|----------------------------------------------|
| FBE | A Group, Inc. |
| FBE | Dean Contracting, Inc. |
| MBE | A.M.E. Metals, Inc. |
| MBE | Cogen Construction |
| MBE | C-One-O Construction |
| MBE | Empigard Metal Finishing, Inc. |
| MBE | Hooks Concrete Corporation |
| MBE | John E. Foster & Associates, Inc. |
| MBE | K.B. & F Trucking |
| MBE | L.C. Electrical Services |
| MBE | Rico Cox Insulation Construction Services |
| MBE | Star Beverage Corp. |
| MBE | T & M's Hauling and Moving |
| MBE/FBE | Higher Dimensions Training & Resource Center |

**ADOPTED RESOLUTIONS
AND ORDINANCES**

Res. No. 233-05.

By Council Members Zane, Gordon, Cimperman and Jackson (by departmental request).

An emergency resolution declaring the necessity and intention to appropriate property for the public purpose of constructing a public road in connection with the Battery Park development Project at West 74th and Goodwalt Avenue.

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 for the public purpose of constructing a public road in connection with the Battery Park development Project, it is necessary to appropriate in fee simple interest and this Council declares its intent to appropriate the fee simple interest in and to the following described property located at West 74th and Goodwalt Avenue:

Permanent Parcel Nos.
002-04-014 and 002-04-030
1275 West 74th Street and
7400 Goodwalt Avenue,
Cleveland, Ohio

Parcel No. 1:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublots Nos. 35, 36, 37 and 38 in the George Smith's Allotment, being a part of Original Brooklyn Township Lot No. 30, as shown by the recorded plat in Volume 17, Page 12 of Cuyahoga County Records, and further bounded and described as follows:

Beginning at a point in the Southeasterly corner of Sublot No. 38 in the Northerly side line of Goodwalt Avenue, N.W., 40 feet wide, as appears by the aforesaid Allotment Plat;

Thence Northerly along the Easterly lines of Sublots Nos. 35, 36, 37, and 38 in said Allotment a distance of 157.97 feet to a point in the Northeasterly corner of Sublot No 35;

Thence Westerly along the Northerly line of Sublot No. 35, a distance of 44.73 feet to a point;

Thence Southerly a distance of 158.64 feet to a point in the Northerly side line of Goodwalt Avenue, N.W.;

Thence Easterly along the Northerly side line of Goodwalt Avenue, N.W., a distance of 37.71 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Parcel No. 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublots Nos. 35, 36, 37 and 38 in the George Smith's Allotment, being a part of Original Brooklyn Township

Lot No. 30, as shown by the recorded plat in Volume 17, Page 12 of Cuyahoga County Map Records, and further bounded and described as follows:

Beginning at the intersection point of the Northerly side line of Goodwalt Avenue, N.W. (40 feet wide) and the Easterly side line of West 74th Street (40 feet wide);

Thence Northerly along the Easterly side line of West 74th Street, 162.46 feet to a point in the Northwesterly corner of Sublot No. 35 in the aforesaid Allotment;

Thence Easterly along the Northerly line of said Sublot No. 35 a distance of 74.21 feet to a point;

Thence Southerly a distance of 158.64 feet to a point in the Northerly line of Goodwalt Avenue, N.W.;

Thence Westerly along the Northerly line of Goodwalt Avenue, N.W. a distance of 79.88 feet to the place of beginning be the same more or less, but subject to all legal highways.

Section 2. That the Director of Finance is authorized to cause written notice of the adoption of this resolution to be given to the owners, persons in possession, or having an interest of record in the above-mentioned premises. The notice shall be served according to law by a person to be designated for that purpose by the Director of Finance which return shall be made in the manner provided by law.

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

Adopted April 11, 2005.
Effective April 19, 2005.

Res. No. 664-05.

By Council Member White.

An emergency resolution encouraging the Community Relations Board, the Cleveland Municipal School District, Cleveland churches, and community leaders to work together to establish a Youth Taskforce and hotline committed to providing youth with safe opportunities for education, socialization, and recreation.

Whereas, recent gang related violence, high poverty rates, and lack of employment opportunities have created a challenging environment for youth in the City of Cleveland; and

Whereas, the summer months create additional challenges as school is not in session; and

Whereas, this Council acknowledges the need for youth partnerships committed to addressing the issues encountering youth today; and

Whereas, this Council encourages the Community Relations Board, the Cleveland Municipal School District, Cleveland churches, and community leaders to work together to establish a Youth Taskforce committed to

providing youth with safe opportunities for education, socialization and recreation; and

Whereas, the establishment of a Youth Taskforce safe summer hotline and website would enable youth to communicate with other youth about their concerns, fears, challenges, and events in their lives; and

Whereas, youth working together for youth can be a powerful tool in protecting youth and enhancing the quality of life of the City's youth; and

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

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

Section 1. That this Council encourages the Community Relations Board, the Cleveland Municipal School District, Cleveland churches, and community leaders to work together to establish a Youth Taskforce committed to providing youth with safe opportunities for education, socialization, and recreation.

Section 2. That the Clerk of Council is requested to transmit a copy of this resolution to Jeff Johnson, Executive Director, Community Relations Board, and Barbara Byrd Bennett, CEO, Cleveland Municipal School District.

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

Adopted April 11, 2005.
Effective April 19, 2005.

Res. No. 665-05.

By Council Member Polensek.

An emergency resolution withdrawing objections to a New C1 and C2 Liquor Permit at 15222 Waterloo Road and repealing Resolution Nos. 500-04 and 551-04, objecting to said permit.

Whereas, this Council objected to a New C1 and C2 Liquor Permit to 15222 Waterloo Road by Resolution No. 500-04 adopted by the Council on March 22, 2004 and Resolution No. 551-04 adopted by the Council on March 29, 2004; and

Whereas, this Council wishes to withdraw its objections to the above permit and consents to said permit; and

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

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

Section 1. That objections to a New C1 and C2 Liquor Permit to Tap Investments, LLC, 15222 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 87987000125, be and the same is hereby withdrawn and

Resolution Nos. 500-04 and 551-04, containing such objections, be and the same is hereby repealed and that this Council consents to the immediate permit thereof.

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

Adopted April 11, 2005.

Effective April 19, 2005.

Ord. No. 171-05.

By Council Members Britt, Gordon, Johnson, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Directors of Community Development to transfer properties at the northwest corner of Quincy Avenue and East 83rd Street, to the control, possession, and use of the Department of Parks, Recreation and Properties; and authorizing the Director of Parks, Recreation and Properties to enter into an agreement with the Fairfax Renaissance Development Corporation to allow and accept the construction of Quincy Park and landscaping improvements, as a gift to the City; to enter into a property adoption agreement with Fairfax for the beautification and maintenance of the park; and to name the park located at Quincy Avenue and East 83rd Street the "Quincy Park."

Whereas, the Department of Community Development desires to transfer certain properties under its control to the Department of Parks, Recreation and Properties; and

Whereas, Section 183.14 of the Codified Ordinances of Cleveland, Ohio, 1976, requires that the transfer be preceded by an ordinance of Council approving the transfer; and

Whereas, the properties to be transferred are components of the City of Cleveland's land reutilization program and, as such, can be transferred under Section 5722.07 of the Revised Code without the consent of other legislative authorities only if: (a) the properties are transferred at not less than fair market value under the policies of the Land Reutilization Program; and (b) the properties are subject to restrictions and covenants as the Director of Community Development deems necessary or appropriate to assure the land's effective reutilization; 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 under Section 183.14 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Community Development is authorized to transfer the following described properties to the control,

possession, and use of the Department of Parks, Recreation and Properties:

P. P. No. 119-26-043

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 23 in Holden and Judson's Subdivision of part of Original One Hundred Acre Lot No. 407, as shown by the recorded plat in Volume 3 of Maps, Page 59 of Cuyahoga County Records, and bounded and described as follows:

Beginning in the Easterly line of East 82nd Street at the Northwest corner of said Sublot No. 23; thence Easterly along the Northerly line of said Sublot, 50 feet; thence Southerly parallel with the Easterly line of East 82nd Street 30 feet; thence Westerly parallel with the Northerly line of said Sublot, 50 feet to the Easterly line of East 82nd Street; thence Northerly along the Easterly line of East 82nd Street, 30 feet to the beginning, according to the survey of Charles W. Root, Registered Professional Engineer and Surveyor, be the same more or less, but subject to all legal highways.

P. P. No. 119-26-013

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 26 in Holden and Judson's Subdivision of part of Original One Hundred Acre Township Lot No. 407, according to the plat of said Subdivision recorded in Volume 3 of Maps, Page 59 of Cuyahoga County Records and bounded and described as follows:

Beginning at the intersection of the Northerly line of Quincy Avenue, S.E., with the Easterly line of East 82nd Street; thence Northerly along the Easterly line of East 82nd Street, 100.00 feet to a point distant Southerly 60.00 feet from the Northwest corner of Sublot No. 23 in Holden and Judson's Subdivision; thence Easterly parallel with the Northerly line of said Sublot No. 23, 50.00 feet to the Easterly line of said Sublot No. 26; thence Southerly along the Easterly line of said Sublot No. 26, 100.00 feet to the Northerly line of Quincy Avenue, S.E.; thence Westerly along the Northerly line of Quincy Avenue, S.E., 50.00 feet to the beginning, according to the survey of Charles T. Root, Registered, Professional Engineer and Surveyor, be the same more or less, but subject to all legal highways.

Subject to Zoning Ordinances, if any.

P. P. No. 119-26-014

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 25 and part of Sublot No. 23 in Holden and Judson's Allotment of part of Original One Hundred Acre Lot No. 407, as shown by the recorded plat in Volume 3 of Maps, Page 59 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Northerly line of Quincy Avenue, S.E., at the Southwesterly corner of Sublot No. 25; thence Easterly along the Northerly

line of Quincy Avenue, S.E., 50 feet to the Southeasterly corner of said Sublot No. 25; thence Northerly along the Easterly line of Sublot No. 25 and the Northerly prolongation thereof, 160 feet to its intersection with the Northerly line of said Sublot No. 23; thence Westerly along the Northerly line of Sublot No. 23, 50 feet to its intersection with the Northerly prolongation of the Westerly line of Sublot No. 25; thence Southerly along said Northerly prolongation and the Westerly line of Sublot No. 25, 160 feet to the place of beginning, as appears by said plat.

Also subject to all zoning ordinances, if any.

P. P. No. 119-26-015

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 24 and the Easterly 50 feet of Sublot No. 23 in the Holden and Judson's Subdivision of part of Original One Hundred Acre Lot No. 407, as shown by the recorded plat in Volume 3, Page 59 of Cuyahoga County Records, and together forming a parcel of land 50 feet front on the Northerly side of Quincy Avenue, S.E., (formerly Wade Street), and extending back of equal width 160 feet, as appears by said plat.

P. P. No. 119-26-017

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 34 in Clewell and Worley's Subdivision of part of Original One Hundred Acre Lot No. 407, as shown by the recorded plat of said Subdivision in Volume 3 of Maps, Page 56 of Cuyahoga County Records and bounded and described as follows:

Beginning on the Northerly line of Quincy Avenue, S.E., (formerly Wade Street), at a point distant 16 8/12 feet Westerly from the Southeasterly corner of said Sublot No. 34, said point being also the Southeasterly corner of a piece of land conveyed by Robert Hyslop and Phebe Hyslop, and recorded in Volume 324, Page 475 of Cuyahoga County Records; thence Northerly along the Easterly line of said land so conveyed to Alfred Paul, 120 feet to the Northeast corner of land so conveyed to said Alfred Paul; thence Westerly and parallel with the Northerly line of Quincy Avenue, S.E., 20 feet to the Easterly line of the second parcel of land conveyed by Charles Thompson and Avarina Thompson, his wife, to Alfred Paul by deed dated March 3, 1880, and recorded in Volume 312, Page 437 of Cuyahoga County Records; thence Northerly along the Easterly line of said second parcel of land so conveyed to Alfred Paul, about 29-1/2 feet to the Southerly line of a parcel of land conveyed by Alfred Paul and Catherine Paul, his wife, to Robert Hyslop by deed dated July 6, 1881, and recorded in Volume 324, Page 475 of Cuyahoga County Records; thence Westerly along the Southerly line of said land so conveyed to said Robert Hyslop, 10 feet; thence Southerly and parallel with the

first described line, about 149-1/2 feet to the Northerly line of Quincy Avenue, S.E.; thence Easterly along the Northerly line of Quincy Avenue, S.E., 30 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 119-26-018

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being parts of Sublot Nos. 34 and 35 in Clewell and Worley's Subdivision of part of Original One Hundred Acre Lot No. 407, as shown by the recorded plat in Volume 3 of Maps, Page 56 of Cuyahoga County Records together forming a parcel of land bounded and described as follows:

Beginning in the Northerly line of Quincy Avenue, S.E., at the Southwesterly corner of a parcel of land conveyed to Melo Ballentine by deed dated December 23, 1943, and recorded in Volume 5655, Page 274 of Cuyahoga County Records, said place being also distant Westerly measured along the Northerly line of said Quincy Avenue, S.E., 26 feet from its intersection with the Westerly line of East 83rd Street (formerly Lincoln Avenue); thence Westerly along the Northerly line of said Quincy Avenue, S.E., about 49.06 feet to the Southeastly corner of a parcel of land conveyed to the Brightwood Investment Company by deed dated September 11, 1936 and recorded in Volume 4658, Page 340 of Cuyahoga County Records; thence Northerly along an Easterly line of said parcel so conveyed to the Brightwood Investment Company, 120 feet to a Northeastly corner of said parcel; thence Westerly along a Northeastly line of said parcel so conveyed to the Brightwood Investment Company, 20 feet to an interior corner of said parcel; thence Northerly along an Easterly line of said parcel so conveyed to the Brightwood Investment Company about 29.50 feet to the Southerly line of a parcel of land conveyed to Fred Mares and Elbina Mares by deed dated August 5, 1937 and recorded in Volume 4767, Page 474 of Cuyahoga County Records; thence Easterly along said Southerly line about 85 feet to the Westerly line of said East 83rd Street; thence Southerly along said Westerly line 19.58 feet to the Northeastly corner of the parcel conveyed to Melo Ballentine as aforesaid; thence Westerly along the Northerly line of said parcel so conveyed to Melo Ballentine, 26 feet to the Northwesterly corner of said parcel; thence Southerly along the Westerly line of said parcel so conveyed to Melo Ballentine, 130 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 119-26-019

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 35 in Clewell and Worley Subdivision of part of Original One Hundred Acre Lot No. 407 as shown by the recorded plat in Volume 3 of

Maps, Page 56 of Cuyahoga County Records, and bounded and described as follows:

Beginning at the intersection of the Northerly line of Quincy Avenue, S.E., (formerly Wade Street) with the Westerly line of East 83rd Street (formerly Lincoln Street); thence Westerly along the Northerly line of Quincy Avenue, S.E., 26 feet; thence Northerly and parallel with the Westerly line of East 83rd Street 130 feet; thence Easterly and parallel with the Northerly line of Quincy Avenue, S.E., 26 feet to the Westerly line of East 83rd Street; thence Southerly along the Westerly line of East 83rd Street 130 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to all zoning ordinances, if any.

P. P. No. 119-26-020

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot Nos. 33, 34 and 35 in Clewell and Worley's Subdivision of part of Original One Hundred Acre Lot No. 407 as shown by the recorded plat in Volume 3 of Maps, Page 56 of Cuyahoga County Records, bounded and described as follows:

Beginning in the Westerly line of East 83rd Street (formerly Lincoln Avenue) distant 25 feet Southerly from the Northeastly corner of Sublot No. 35; thence Southerly along said Westerly line of said East 83rd Street, 25 feet; thence Westerly parallel with the Northerly line of Sublot Nos. 35, 34 and 33 to the Westerly line of Sublot No. 33 at the Northwesterly corner of parcel of land conveyed to Isador Moneter by deed dated June 9, 1924, and recorded in Volume 3111, Page 161 of Cuyahoga County Records, thence Northerly along said Westerly line of Sublot No. 33, 25 feet; thence Easterly parallel with the Northerly line of Sublot Nos. 33, 34 and 35 to the place of beginning, be the same more or less, but subject to all legal highways.

P. P. No. 119-26-042

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Southerly 30 feet of Sublot No. 21 and all of Sublot No. 22 in Holden and Judson's Subdivision of part of Original One Hundred Acre Lot No. 407 as shown by the recorded plat in Volume 3 of Maps, Page 59 of Cuyahoga County Records and together forming a parcel of land 70 feet on the Easterly side of East 82nd Street (formerly Edward Avenue) and extending back of equal width 150 feet as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 119-26-044

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being parts of Sublot Nos. 23 and 26 in Holden and Judson's Subdivision of part of Original One Hundred Acre Lot No. 407 as shown by the recorded plat in Volume 3 of Maps, Page 59 of Cuya-

hoga County Records, bounded and described as follows:

Beginning in the Easterly line of East 82nd Street (formerly Edwards Avenue) at a point distant Southerly 30 feet from the Northwesterly corner of said Sublot No. 23; thence Easterly parallel with the Northerly line of said Sublot, 50 feet; thence Southerly parallel with the Easterly line of East 82nd Street, 30 feet; thence Westerly parallel with the Northerly line of said Sublot No. 23, 50 feet to the Easterly line of East 82nd Street; thence Northerly along the Easterly line of East 82nd Street, 30 feet to the beginning, according to the survey of Charles W. Root, Registered Professional Engineer and Surveyor, be the same more or less, but subject to all legal highways.

P. P. No. 119-26-016

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Southerly part of Sublot No. 33 and the Southwesterly part of Sublot No. 34 in Clewell and Worley's Subdivision of part of Original One Hundred Acre Lot No. 407 as shown by the recorded plat in Volume 3 of Maps, Page 56 of Cuyahoga County Records and together forming a parcel of land 70 feet front on the Northerly side of Quincy Avenue, S.E., 150 feet deep on the Westerly line, about 149 feet 6 inches deep on the Easterly line and 70 feet wide in the rear, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to Zoning Ordinances, if any.

Section 2. That on consummation of the transfer referenced above, the directors participating in the transaction shall initial and date a copy of this ordinance and deliver a copy to the custody to the Division of Property Management of the Department of Parks, Recreation and Properties.

Section 3. That, as a condition of the transfer, the Department of Parks, Recreation and Properties shall pay the Department of Community Development a price not less than fair market value as determined by the Board of Control, considering the restrictions and covenants deemed necessary by the Director of Community Development to assure the property's effective reutilization.

Section 4. That on transfer of the property referenced above, the Director of Parks, Recreation and Properties is authorized to enter into an agreement with the Fairfax Renaissance Development Corporation to allow it to construct a park and to make landscaping improvements, and to accept the improvements.

Section 5. That, on transfer of the property referenced above and notwithstanding and as an exception to the provisions of Chapters 181 and 183 and Section 133.24 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Parks, Recreation and Properties is authorized to enter into a property adoption agreement with the Fairfax Renaissance Development Corpora-

tion for the landscaping and maintenance of Quincy Park, to be located at the northwest corner of Quincy Avenue and East 83rd Street, more fully described in Section 1 of this ordinance.

Section 6. That the property adoption agreement shall not be construed as a conveyance of any right, title, or interest in public property, but is the grant of a privilege revocable at the will of Council.

Section 7. That the Director of Parks, Recreation and Properties is authorized to accept the gift of any improvements to the adopted property, constructed, landscaped, and maintained by the Fairfax Renaissance Development Corporation.

Section 8. That the agreements authorized by this ordinance shall be prepared by the Director of Law.

Section 9. That the park to be situated on northwest corner of Quincy Avenue and East 83rd Street, more fully described in Section 1 of this ordinance, is named the "Quincy Park."

Section 10. That the Director of Parks, Recreation and Properties is authorized to give effect to this ordinance by the placing of appropriate signs, nameplates and plaques, and other references necessary to reflect the naming of Quincy Park.

Section 11. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed April 11, 2005.

Effective April 19, 2005.

Ord. No. 180-05.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 97th Street to Archie L. Bell III.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Sup-

plies is hereby authorized to sell Permanent Parcel No(s), 119-09-102, 119-09-103 and 119-09-104, as more fully described below, to Archie L. Bell III.

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

P. P. No. 119-09-102

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 4 in B.C. Walter's Subdivision of part of Original One Hundred Acre Lot Nos. 393 and 401 as shown by the recorded plat in Volume 4 of Maps, Page 42 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Southerly line of Lamont Avenue, N.E. (formerly Lamont Street) at a point 130 feet Westerly from the Northwesterly corner of said Sublot No. 4; thence Southerly along the Westerly line of land deeded to Mattie G. Street by deed dated March 28, 1898, and recorded in Volume 684, Page 281 of Cuyahoga County Records, 49 feet to the Southerly line of Sublot No. 4; thence Westerly along the Southerly line of Sublot No. 4, 50 feet; thence Northerly and parallel to Mattie G. Street's West line, 49 feet to the Southerly line of Lamont Avenue, N.E.; thence Easterly along the Southerly line of said Lamont Avenue, N.E., 50 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Subject to zoning ordinances, if any.

P. P. No. 119-09-103

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Easterly 130 feet of Sublot No. 4 in B.C. Walters Subdivision of part of Original One Hundred Acre Lot Nos. 393 and 401, as shown by the recorded plat in Volume 4 of Maps, Page 42 of Cuyahoga County Records and being 49 feet front on the Westerly side of East 97th Street and extending back 130 feet on the Southerly line of Lamont Avenue and having a rear line of 49 feet, be the same more or less, but subject to all legal highways.

P. P. No. 119-09-104

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 3 in B.C. Walters Subdivision of part of Original One Hundred Acre Lots Nos. 393 and 401, as shown by the recorded plat in Volume 4 of Maps, Page 42 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Westerly line of East 97th Street (formerly Logan Avenue) at the Northeasterly corner of said Sublot No. 3; thence Westerly along the Northerly line of said Sublot No. 3, 177 feet; thence Southerly on a line parallel to the Westerly line of East 97th Street, 20 feet; thence Westerly on a line parallel to the Northerly line of said Sublot No. 3, 3-1/2 feet; thence Southerly on a line parallel to said Westerly line of East 97th Street, 30 feet to the

Southerly line of Sublot No. 3; thence Easterly along said Southerly line of Sublot No. 3, 180-5/10 feet to said Westerly line of East 97th Street; thence Northerly 50 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to zoning ordinances, if any.

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

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

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 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.

Passed April 11, 2005.

Effective April 19, 2005.

Ord. No. 472-05.

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

An emergency ordinance authorizing the purchase by one or more contracts of labor and materials necessary to repair test tees on the sanitary sewer at the Justice Center, including related work, for the Division of Property Management, Department of Parks, Recreation and Properties.

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 authorized to make one or more written contracts under the Charter

and the Codified Ordinances of Cleveland, Ohio, 1976, for each or all of the following items: labor and materials necessary to repair test tees on the sanitary sewer at the Justice Center, including but not limited to the removal and replacement of concrete sidewalk and pavers, to be purchased by the Commissioner of Purchases and Supplies for a gross price, for the Division of Property Management, Department of Parks, Recreation and Properties.

Section 2. That the cost of the contract or contracts authorized shall be paid from Fund No. 11 SF 006, Request No. 156866.

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

Passed April 11, 2005.
Effective April 19, 2005.

Ord. No. 545-05.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of building materials and used paving bricks, for the various divisions of City government.

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the term of one year for the necessary items of building materials and used paving bricks in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies upon a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

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

Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118736)

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

Passed April 11, 2005.
Effective April 19, 2005.

Ord. No. 546-05.

By Council Member Jackson (by departmental request).

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

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

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

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

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118734)

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

Passed April 11, 2005.
Effective April 19, 2005.

Ord. No. 547-05.

By Council Member Jackson (by departmental request).

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

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

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

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

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118737)

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

Passed April 11, 2005.
Effective April 19, 2005.

Ord. No. 550-05.

By Council Member Jackson (by departmental request).

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

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year of the necessary items of ready mix concrete, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118735)

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

Passed April 11, 2005.
Effective April 19, 2005.

Ord. No. 552-05.
By Council Member Jackson (by departmental request).

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

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

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

Section 1. That the Director of Finance is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the term of one year or two years for the necessary items of labor and materials needed to maintain and repair overhead doors in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of City government.

Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Finance is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Finance by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 118720)

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

Passed April 11, 2005.
Effective April 19, 2005.

Ord. No. 555-05.
**By Council Members Coats, Polen-
sek, Johnson, Cimperman and Jack-
son (by departmental request).**

An emergency ordinance to appropriate property for the public purpose of constructing an all-weather track and football-field complex located at 1050 East 152nd Street.

Whereas, the Council of the City of Cleveland, by Resolution No. 228-05, adopted March 7, 2005, declared the necessity and intention of appropriating the fee simple property interests described in this ordinance for the public purpose of constructing an all-weather track and football-field complex located at 1050 East 152nd Street; and

Whereas, notice of the adoption of this resolution has been served on the persons in possession or having an interest in the property; 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 for the public purpose of constructing an all-weather track and football-field complex located at 1050 East 152nd Street, the following described fee simple interests are appropriated:

Permanent Parcel No. 115-16-029

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Euclid Township Lot No. 2, Tract No. 10, and bounded and described as follows:

Beginning at a point in the center line of East 152nd Street, which is also the Easterly line of said Original Lot No. 2, distant South 181.60 feet from a stone monument at the intersection of said center line of East 152nd Street and the Easterly prolongation of the Southerly line of Sublot No. 44 in Cowles and Stark's Subdivision of part of Original Euclid Township Lot Nos. 1, 2, 42 and 43, Tract No. 10, as shown by the recorded plat in Volume 9 of Maps, Page 22 of Cuyahoga County Records;

Thence West at right angles with the Easterly line of said Original Lot No. 2, 446.38 feet to the Easterly line of The Ben Gray Allotment recorded in Volume 18 of Maps, Page 9 of Cuyahoga County Records; thence South 7° 01' 20" East along said Easterly line of The Ben Gray Allotment, about 150 feet to the Southwesterly corner of premises conveyed to Manuel Halle by deed recorded in Volume 198, Page 285 of Cuyahoga County Records;

Thence Easterly along the Southerly line of premises so conveyed to Manuel Halle, 427.96 feet to the Southeasterly corner thereof;

Thence North along the center line of East 152nd Street, about 150 feet to the beginning, be the same more or less, but subject to all legal highways.

Section 2. That the Director of Law is directed to apply to a court of competent jurisdiction to have a jury impaneled to make inquiry into and assess the compensation to be paid for the fee simple interests described above.

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

Passed April 11, 2005.
Effective April 12, 2005.

Ord. No. 657-05.
**By Council Members Zone, Gordon,
Cimperman and Jackson (by depart-
mental request).**

An emergency ordinance to amend the title and Section 1 of Ordinance No. 182-05, passed March 7, 2005, relating to the sale of real property as part of the Land Reutilization Program and located on Clark Avenue to Stockyard Redevelopment Organization.

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

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

Section 1. That the title and Section 1 of Ordinance No. 182-05, passed March 7, 2005, are amended to read as follows:

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Clark Avenue to Stockyard Redevelopment Organization or designee.

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 006-30-009 and 006-30-010, as more fully described below, to Stockyard Redevelopment Organization or designee.

Section 2. That the title and Section 1 of Ordinance No. 182-05, passed March 7, 2005, are repealed.

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

Passed April 11, 2005.

Effective April 19, 2005.

Ord. No. 661-05.

By Council Member Jackson.

An emergency ordinance authorizing the Clerk of Council to amend City Contract No. 60859 with ADT Security Services, Inc. to provide for professional security services for Cleveland City Council for a period of two years and to provide for the purchase of software, monitors, cameras, and other equipment necessary for the operation of City Council's security system.

Whereas, City Council previously entered into a contract for professional security services with ADT Security Services, Inc; and

Whereas, City Council seeks to amend City Contract No. 60859 to extend the contract term; and

Whereas, equipment must be purchased from ADT Security Services, Inc. as part of its professional maintenance services; 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 Clerk of Council is hereby authorized to amend City Contract No. 60859 with ADT Security Services, Inc. to provide for professional security services, including maintenance services, necessary to provide office security services for Cleveland City Council for a period of two years.

Section 2. That the Clerk of Council is hereby authorized to amend City Contract No. 60859 with ADT Security Services, Inc. to provide for the purchase of software, monitors, cameras, and other equipment necessary for the operation of City Council's security system.

Section 3. That the cost of said contract hereby authorized shall be paid from Fund No. 01 SF 001.

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 April 11, 2005.

Effective April 19, 2005.

Ord. No. 662-05.

By Council Members Sweeney, Cimperman, Cintron, Gordon and Brady.

An emergency ordinance authorizing the Director of Community Development to enter into an agreement with Tremont West Development Corporation for Westside Leadership Collaborative of Cleveland Program through the use of Ward 13, 14, 15, 19, 20 Neighborhood Equity Funds.

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

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

Section 1. That the Director of Community Development is authorized to enter into an agreement with Tremont West Development Corporation for the Westside Leadership Collaborative of Cleveland Program for the public purpose of providing leadership training to Cleveland residents in community building initiatives through the use of wards 13, 14, 15, 19 and 20 Neighborhood Equity Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$2,500 and shall be paid from Fund No. 10 SF 166.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

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 April 11, 2005.

Effective April 19, 2005.

Ord. No. 663-05.

By Council Member Britt.

An emergency ordinance authorizing the Director of Economic Development to enter into an agreement with Fairfax Renaissance Development Corporation for the East 83rd Street Affordable Apartments Project through the use of Ward 6 Neighborhood Equity Funds.

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

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

Section 1. That the Director of Economic Development is authorized to enter into an agreement with Fairfax Renaissance Development Corporation for the East 83rd Street Affordable Apartments Project for the public purpose of rehabilitating a vacant apartment building in order to provide affordable rental housing to low and moderate income residents that reside in the City of Cleveland through the use of Ward 6 Neighborhood Equity Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$40,000 and shall be paid from Fund No. 10 SF 166.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

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 April 11, 2005.

Effective April 19, 2005.

COUNCIL COMMITTEE MEETINGS

**Monday, April 18, 2005
11:00 a.m.**

Employment, Affirmative Action and Training Committee: Present: Lewis, Chair; Conwell, Vice Chair; Cintron, Coats, Reed, Polensek. *Authorized Absence:* Johnson.

1:30 p.m.

City Planning (Zoning) Committee: Present: Cimperman, Chair; Conwell, Lewis, Pierce Scott, Westbrook. *Authorized Absence:* Rybka, Vice Chair; O'Malley.

2:00 p.m.

Finance Committee: Present: Jackson, Chair; Sweeney, Vice Chair; Brady, Britt, Coats, O'Malley, Reed, Pierce Scott, Westbrook, White, Gordon.

**Tuesday, April 19, 2005
10:00 a.m.**

Community and Economic Development Committee: Present: Gordon, Chair; Cimperman, Vice Chair; Coats, Lewis, Reed, Pierce Scott, Zone. *Authorized Absence:* Cintron, Jones.

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