

The City Record

Official Publication of the Council of the City of Cleveland



May the Fifth, Two Thousand and Ten

Frank G. Jackson
Mayor

Martin J. Sweeney
President of Council

Patricia J. Britt
City Clerk, Clerk of Council

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

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Martin J. Sweeney

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

City Clerk, Clerk of Council – Patricia J. Britt, 216 City Hall, 664–2840
First Assistant Clerk — Sandra Franklin

MAYOR – Frank G. Jackson

Ken Silliman, Secretary to the Mayor, Chief of Staff
Darnell Brown, Executive Assistant to the Mayor, Chief Operating Officer
Valarie J. McCall, Executive Assistant to the Mayor, Chief of Government Affairs
Chris Warren, Executive Assistant to the Mayor, Chief of Regional Development
Monyka S. Price, Executive Assistant to the Mayor, Chief of Education
Maureen Harper, Executive Assistant to the Mayor, Chief of Communications
Andrea V. Taylor, Executive Assistant to the Mayor, Press Secretary
Andrew Watterson, Executive Assistant to the Mayor, Chief of Sustainability
Natoya J. Walker, Interim Director, Office of Equal Opportunity

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

DEPT. OF FINANCE – Sharon Dumas, Director, Room 104;

Frank Badalamenti, Manager, Internal Audit
DIVISIONS: Accounts – Richard W. Sensenbrenner, Commissioner, Room 19
Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122
City Treasury – _____, Treasurer, Room 115
Financial Reporting and Control – James Gentile, Controller, Room 18
Information Technology and Services – Douglas Divish, Commissioner, 205 W. St. Clair Avenue
Purchases and Supplies – James E. Hardy, Commissioner, Room 128
Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue
Taxation – Nassim Lynch, Tax Administrator, 205 W. St. Clair Avenue

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

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

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

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

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

DIVISIONS: Architecture – Kurt Wiebusch, Commissioner, Room 517
Engineering and Construction – _____, 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 – Matt Carroll, Director, Mural Building, 75 Erieview Plaza

DIVISIONS: Air Quality – Richard L. Nemeth, Commissioner
Environment – Willie Bess, Commissioner, Mural Building, 75 Erieview Plaza
Health – Karen K. Butler, Commissioner, Mural Building, 75 Erieview Plaza

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

DIVISIONS: Dog Pound – John Baird, Chief Dog Warden, 2690 West 7th Street
Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.
Emergency Medical Service – Edward Eckart, Commissioner, 1708 South Pointe Drive
Fire – Paul A. Stubbs, Chief, 1645 Superior Avenue
Police – Michael C. McGrath, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street

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

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

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

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

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Nycole D. West, Interim Director, Room 121

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

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

DEPT. OF CONSUMER AFFAIRS – John D. Mahone, Interim Director

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

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

SINKING FUND COMMISSION – Frank G. Jackson, President; Council President Martin J. Sweeney; Betsy Hruby, Asst. Sec’y; Sharon Dumas, Director.

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

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

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

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

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

CITY PLANNING COMMISSION – Room 501 – Robert N. Brown, Director; Anthony J. Coyne, Chairman; David H. Bowen, Lillian Kuri, Lawrence A. Lumpkin, Gloria Jean Pinkney, Norman Krumholz, Council Member Phyllis E. Cleveland.

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

FAIR HOUSING BOARD – Charles See, Chair; Lisa Camacho, Daniel Conway, Robert L. Render, Genesis O. Brown.

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

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

MORAL CLAIMS COMMISSION – Law Director Robert J. Triozzi; Chairman: Finance Director Sharon Dumas; Council President Martin J. Sweeney; Councilman Kevin Kelley.

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

CLEVELAND LANDMARKS COMMISSION – Room 519 – Jennifer Coleman, Chair; Laura M. Bala, Council Member Anthony Brancatelli, Robert N. Brown, Thomas Coffey, Allan Dreyer, William Mason, Michael Rastatter, Jr., John Torres, N. Kurt Wiebusch, Robert Keiser, Secretary.

AUDIT COMMITTEE – Yvette M. Ittu, Chairman; Debra Janik, Bracy Lewis, Diane Downing, Donna Sciarappa, Council President Martin J. Sweeney; Law Director Robert J. Triozzi.

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

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

Earle B. Turner – Clerk of Courts, Russell R. Brown III – Court Administrator, Paul J. Mizerak – Bailiff; Jerome M. Krakowski – Chief Probation Officer, Gregory F. Clifford – Chief Magistrate

The City Record

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WEDNESDAY, MAY 5, 2010

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CITY COUNCIL

MONDAY, MAY 3, 2010

The City Record
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City Clerk, Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 2010-2013

MONDAY — Alternating

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

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

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

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

MONDAY

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

TUESDAY

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

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

WEDNESDAY — Alternating

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

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

WEDNESDAY — Alternating

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

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

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

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

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

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

OFFICIAL PROCEEDINGS CITY COUNCIL

NO MEETING

THE CALENDAR

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

Ord. No. 261-10.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the issuance and sale of water revenue obligations in the maximum principal amount of \$50,000,000 to fund costs of acquiring automated water meter reading infrastructure and authorizing related matters.

Ord. No. 513-10.

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

An emergency ordinance to amend the title and Sections 1, 2, 3, 4, 7 and 8 of Ordinance No. 775-07, passed July 11, 2007, relating to the automatic Meter Reading System Program; authorizing the Director of Public Utilities to apply for and accept a Water Supply Revolving Loan Account to provide funding for the Program; and to autho-

rise the Director of Public Utilities to enter into an amendment to Contract No. 67994 with CH2M Hill, Inc. to provide project administration services for the implementation of the program.

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

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

Section 1. That the title and Sections 1, 2, 3, 4, 7, and 8 of Ordinance No. 775-07, passed July 11, 2007, are amended to read as follows:

An Emergency Ordinance authorizing the Director of Public Utilities to employ consultants, computer software developers, or vendors or one or more firms of consultants, computer software developers, or vendors necessary for installing, designing, assessing, administering, training, implementing, testing, integrating, migrating, maintenance and providing incidental equipment and supplies and other services necessary to implement a meter automation, replacement, and water loss control program throughout the Division of Water service area; applying for and accepting a Water Supply Revolving Loan Account loan to provide funding for the Program; determining the method of making the public improvement of installing new equipment, including removing existing equipment if necessary; and authorizing the Director to enter into one or more public improvement contracts for the making of the improvement, for the Department of Public Utilities.

Section 1. That the Director of Public Utilities is authorized to employ by contract or contracts one or more consultants, computer software developers, or vendors or one or more firms of consultants, computer software developers, or vendors for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland for installing, designing, assessing, administering, training, implementing, testing, integrating, migrating and providing incidental equipment and supplies and other services necessary to implement a meter automation, replacement, and water loss control program throughout the Division of Water service area ("Automatic Meter Reading System Program"), generally described in the Executive Summary and Legislative History of AMR Legislation placed in the file mentioned below, to acquire software licenses,

if necessary, and other professional services necessary to implement the program and for hardware and software maintenance, support, and training, on an as-needed basis, for a period of one year with three one-year options to renew for additional one-year periods, for the Department of Public Utilities, exercisable at the option of the Director of Public Utilities.

The selection of the consultants, computer software developers, or vendors for the licenses or services shall be made by the Board of Control on the nomination of the Director of Public Utilities from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Utilities 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 Utilities, and certified by the Director of Finance. **That a copy of the selected proposal shall be placed in the file mentioned below.**

Section 2. That the Director of Public Utilities is authorized to apply for and accept a Water Supply Revolving Loan Account ("WSRLA") loan in the approximate amount of \$11,000,000 to provide funding for the Automatic Meter Reading System Program.

Section 3. That the Director of Public Utilities is authorized to enter into a loan agreement with the Ohio Environmental Protection Agency and the Ohio Water Development Authority for a WSRLA loan which loan agreement shall substantially be in the same form as the agreement contained in File No. 513-10-A. The Director of Public Utilities is further authorized to file all papers and execute all documents to receive the funds under the WSRLA Agreement; and appropriate the loan funds for the purposes as set forth in the WSRLA Agreement.

Section 4. That on execution of the WSRLA Agreement, the Director of Public Utilities is authorized to repay the loan funds to the WSRLA in accordance with the terms and conditions of the WSRLA Agreement, from the operating revenues of the Division of Water.

Section 7. That the Director of Public Utilities is authorized to enter into any third party license agreements, including maintenance and support, necessary to effect the purposes of this ordinance.

Section 8. That the cost of the contract, contracts, and contract amendments authorized in this ordinance **shall not exceed \$90,000,000** and shall be paid from the fund or funds to which are credited the proceeds of the sale of future waterworks revenue bonds issued for this purpose, from the fund or funds to which are credited the proceeds of the sale of water revenue obligations authorized by Ordinance No. 261-10, from the fund or funds to which are credited the proceeds of the WSRLA loan, and Fund No. 52 SF 001, Request No. 173608.

Section 2. That the existing title and Sections 1, 2, 3, 4, 7, and 8 of Ordinance No. 775-07, passed July 11, 2007, are repealed.

Section 3. That the Director of Public Utilities is authorized to enter into an amendment to Contract No. 67994 with CH2M Hill, Inc. to provide project administration services for the implementation of the 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.

BOARD OF CONTROL

April 28, 2010

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, April 28, 2010, at 10:30 a.m. with Director Triozzi presiding.

Present: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Absent: Mayor Jackson and Director Smith.

Others: James Hardy, Commissioner, Purchases and Supplies. Natoya Walker, Acting Director, Office of Equal Opportunity.

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

Resolution No. 159-10.

By Director Dumas.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 514-10, passed by the Cleveland City Council April 26, 2010, Novarum, Inc. is selected from a list of firms determined, after a full and complete canvass by the Director of Finance, as the firm to be employed by contract to provide professional services to design, build, install, maintain, and upgrade a Ward 13 wireless broadband network for the City of Cleveland.

Be it further resolved that the Director of Finance is requested to enter into a written contract with Novarum, Inc., based upon its December 14, 2009 proposal, to design, build, install, maintain, and upgrade a wireless broadband network for Ward 13, which contract shall be prepared by the Director of Law, shall provide for furnishing of professional services as described in the proposal for an aggregate fee not to exceed \$597,000.60, and shall contain such other provisions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved that employment of the following sub-consultants by Novarum, Inc. under the contract authorized above is approved:

<u>Sub consultants</u>	<u>Percentage Amount</u>
MBE - RNR, Inc.	5.00 % \$30,000.00
Nexgen Wireless	5.00 % \$30,000.00
Imaginetworks	6.00 % \$40,000.00
MyWiFiNation	5.00 % \$30,000.00

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

Resolution No. 160-10.

By Director Withers.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of United Survey, Inc. for the public improvement of rehabilitating and relining sewers at various locations, base bid items including 10% contingency allowance, for the Division of Water Pollution Control, Department of Public Utilities, received on February 12, 2010, under the authority of Section 129.292 of Codified Ordinances of Cleveland, Ohio, 1976, upon a unit basis for the improvements to be performed as ordered during the period of one (1) year starting upon execution of a contract, at the unit prices set forth in the bid, which on the basis of the estimated work to be done would amount to \$698,500.00, is affirmed and approved as the lowest responsible bid, and the Director of Public Utilities is requested to enter into a requirement contract for the improvement, which contract shall provide for an initial order for performance of work, the cost of which order shall be certified to the contract in the sum of \$300,000.00.

The requirement contract shall further provide that the contractor will perform so much of the balance of the work as may be ordered under subsequent requisitions separately certified against the requirement contract, whether the same shall be less than the total estimate of work to be performed under the contract or shall exceed the same by not more than ten percent.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors to United Survey, Inc. for the above-mentioned public improvement by requirement is approved:

<u>SUBCONTRACTOR</u>	<u>CSB/MBE/FBE WORK</u>
Midtown Trucking Co.	CSB/MBE \$60,000.00 (8.590%)

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

Resolution No. 161-10.

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland that, under the authority of Ordinance No. 859-08, passed by the Council of the City of Cleveland on October 6, 2008, the firm of AvAirPros Services, Inc. ("Consultant"), is selected upon the nomination of the Director of Port Control from a list of qualified persons or firms determined after a full and complete canvass by the Director of Port Control as the firm of consultants available to be employed by contract to supplement the regularly employed staff of the several departments of the City to provide professional services necessary to provide maintenance, operation and management of the City-owned common use facilities at Cleveland Hopkins International Airport for a period of two years, with one option to renew for an additional two year period, for the Department of Port Control.

Be it further resolved that the Director of Port Control is authorized to enter into a written contract with AvAirPros Services, Inc. for the above-mentioned services, based upon its proposal dated May 20, 2009, which contract shall be prepared by the Director of Law, shall provide that the compensation to AvAirPros Services, Inc. for the services authorized shall not exceed \$82,500.00, plus reimbursable maintenance and operating expenses in an amount not to exceed \$703,450.00, and shall contain such other provisions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved by the Board of Control that the employment of the following subconsultant by AvAirPros Services, Inc. is approved:

<u>Subconsultant</u>	<u>Percentage</u> <u>Amount</u>
YSM, Inc.	34.729% CSB \$272,954.00

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

Resolution No. 162-10.

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland that, under the authority of Ordinance No. 186-07, passed by the Council of the City of Cleveland on March 12, 2007, the firm of Richard L. Bowen & Associates, Inc. ("Consultant"), is selected upon the nomination of the Director of Port Control from a list of qualified persons or firms determined after a full and complete canvass by the Director of Port Control as the firm of consultants available to be employed by contract to supplement the regularly employed staff of the several departments of the City to provide professional services necessary to provide general engineering and architectural services for a period of

two years, with two one-year options to renew, for the various divisions of the Department of Port Control.

Be it further resolved that the Director of Port Control is authorized to enter into a written contract with Richard L. Bowen & Associates, Inc. for the above-mentioned services, based upon its proposal dated February 4, 2010, which contract shall be prepared by the Director of Law, shall provide that the compensation to Richard L. Bowen & Associates, Inc. for the services authorized shall not exceed \$100,000.00 and shall contain such other provisions as the Director of Law deems necessary to protect and benefit the public interest.

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

<u>Subconsultants</u>	<u>Percentage</u> <u>Amount</u>
EdArch Associates, Inc.	10.0% CSB/MBE \$10,000.00
Pardo Consulting, Inc.	8.0% MBE \$8,000.00
Urban Engineers, Inc.	15.0% Non-CSE/MBE/FBE \$15,000.00

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

Resolution No. 163-10.

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland that, under the authority of Ordinance No. 186-07, passed by the Council of the City of Cleveland on March 12, 2007, the firm of DLZ Ohio, Inc. ("Consultant"), is selected upon the nomination of the Director of Port Control from a list of qualified persons or firms determined after a full and complete canvass by the Director of Port Control as the firm of consultants available to be employed by contract to supplement the regularly employed staff of the several departments of the City to provide professional services necessary to provide general engineering and architectural services for a period of two years, with two one-year options to renew, for the various divisions of the Department of Port Control.

Be it further resolved that the Director of Port Control is authorized to enter into a written contract with DLZ Ohio, Inc. for the above-mentioned services, based upon its proposal dated February 4, 2010, which contract shall be prepared by the Director of Law, shall provide that the compensation to DLZ Ohio, Inc. for the services authorized shall not exceed \$100,000.00 and shall contain such other provisions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subconsultants by DLZ Ohio, Inc. is approved:

<u>Subconsultants</u>	<u>Percentage</u> <u>Amount</u>
Suhail & Suhail, Inc.	10.0% CSB/MBE \$10,000.00
HZW Environmental Consultants, LLC	1.0% CSB/FBE \$ 1,000.00
Michael Baker Jr., Inc.	10.0% Non-CSB/MBE/FBE \$10,000.00
Westlake Reed Leskosky, Inc.	1.0% Non-CSB/MBE/FBE \$1,000.00

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

Resolution No. 164-10.

By Director Cox.

Whereas, under authority of Ordinance No. 688-07 passed by the Council of the City of Cleveland June 4, 2007, and Resolution No. 392-07 adopted by the Board of Control on July 11, 2007, the City of Cleveland, through its Director of Parks, Recreation & Properties, and Behnke Associates, Inc. ("Landscape Architect") entered into City Contract No. 67289 on September 26, 2007 to obtain professional services necessary to complete the Cleveland Memorial Gardens Phase 2 Expansion; and

Whereas, the City desires to modify City Contract No. 67289 to include professional services for Phase 2b and 2c as proposed by Landscape Architect's letter dated November 19, 2009 ("Proposal"); now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the Director of Parks, Recreation & Properties is authorized to enter into a modification to Contract No. 67289 to obtain the additional professional services described in the Proposal for a fee of \$106,535.00, thereby increasing the total contract amount for all services to \$424,435.00.

Be It Further Resolved that the modification authorized hereby shall be prepared by the Director of Law and shall include such additional provisions as said Director deems necessary to protect and benefit the public interest.

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

Resolution No. 165-10.

By Director Cox.

Whereas, under the authority of Ordinance No. 1594-09, passed December 7, 2009, by the Council of the City of Cleveland, the Commissioner of Purchases and Supplies is autho-

rized, by and at the direction of the Board of Control, to convey two non-exclusive, permanent easements and two non-exclusive, temporary easements, no longer needed for public use, to the Northeast Ohio Regional Sewer District for the Lee Road Relief Sewer Project; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 1594-09, passed December 7, 2009, by the Council of the City of Cleveland, the Commissioner of Purchases and Supplies is directed to convey two non-exclusive, permanent easements and two non-exclusive, temporary easements, no longer needed for public use, to the Northeast Ohio Regional Sewer District.

Yeas: Directors Triozzi, Dumas, Withers, Wasik, Carroll, Flask, Cox, Rush, Acting Director West, Directors Nichols, Fumich, Interim Director Mahoney and Director Rybka.

Nays: None.

Absent: Mayor Jackson and Director Smith.

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 17, 2010

9:30 A.M.

Calendar No. 10-57: 5792 Portage Avenue (Ward 12)

Sam Riolo, owner, appeals under the authority of Section 76-6 of the

Charter of the City of Cleveland and Section 329.02(d) of the Cleveland Codified Ordinances from a Notice of Violation issued July 24, 2009 for the property at 5792 Portage Avenue for failure to abate the nuisance of lead paint hazards, as ordered in writing by the Commissioner of Environment, Cleveland Department of Public Health, and to comply with Sections 203.02 and 203.03(a) of the Cleveland Codified Ordinances.

Calendar No. 10-58: 11003 Superior Avenue (Ward 9)

Maher Suleiman, owner appeals for an addition, an expansion of use as a store, to include a drive through and an auto detailing shop addition proposed to be on consolidated parcels located in a Multi-Family District; subject to the limitations of Section 337.08 the proposed auto detailing/car wash is not permitted and is first allowed in a General Retail District, provided it is not less than 100 feet from a residence district and the property is within a Multi-Family District; and Section 349.07(b) requires that accessory off-street parking spaces shall be provided with wheel or bumper guards located so that no part of a parked vehicle extends beyond such parking spaces, and the driveway at Superior Avenue exceeds the maximum width of 30 feet contrary to Section 349.07(c)(3); and the expansion of a nonconforming use requires the Board of Zoning Appeals approval in accordance with the provisions in Section 359.01 of the Cleveland Codified Ordinances.

Calendar No. 10-59: 1293 West 9th Street (Ward 3)

Velimir and Valentina Lucic, d.b.a. 1293 W 9 LLC, owner, appeal to establish use as a restaurant, night club and lounge an existing two-story building in a Limited Retail District; contrary to Section 355.04 the maximum lot area coverage proposed is 20,180 square feet and 4,112 square feet is permitted; zero front and rear yards are proposed contrary to Section 357.04(a) that requires a front yard of 26 feet and Section 357.08(b)(2) that requires a rear yard depth of 29 feet; and a distance of 500 feet is required from another such use in the provisions of Section 347.12(a)(2) of the Cleveland Codified Ordinances.

Calendar No. 10-60: 16109 Woodbury Avenue (Ward 19)

Steve Evans, owner, appeals to install 161 linear feet of 4 foot high solid wood fence that is set back less than 4 feet from the side street property line of a 67' x 145' corner parcel in a One-Family District; contrary to Section 358.04(a) that states fences in actual side street yards of a residence district shall be at least 50 percent open, except that in an actual side street yard, a fence that is set back at least 4 feet from the side street property line may be open or solid.

Secretary

REPORT OF THE BOARD OF ZONING APPEALS

MONDAY, MAY 3, 2010

At the meeting of the Board of Zoning Appeals on Monday, May 3, 2010, the following appeals were heard by the Board.

The following appeal was **Approved:**

Calendar No. 10-43: 3741 Ridge Road Danmaur Investments Ltd., owner, and Bachir and Johnny Fagher, lessees, appealed to change use from a gas station to a vehicle repair garage in a Semi-Industry District; subject to condition.

The following appeals were **Withdrawn:**

Calendar No. 10-44: 4916 Pearl Road Alexandros Bratsis, owner and Gregory Glaros, lessee, appealed to change use from office to a private social club with a bar, a stage, DJ booth and live entertainment in a Local Retail Business District.

Calendar No. 10-46: 1030 East 62nd Street

Dobb, Inc., owner, and Solomon Doibo appealed to establish use as a restaurant, appliance warehouse and transportation company in a two-story building in an RA-2 District.

The following appeal was **Postponed:**

Calendar No. 10-48: 16616 Stockbridge Avenue postponed to May 24, 2010.

The following appeal was **Dismissed:**

None.

The following appeals heard by the Board on April 26, 2010 were adopted and approved on May 3, 2010.

The following appeals were **Approved:**

Calendar No. 10-45: 11633 Clifton Boulevard

Lee Solding Company appealed to expand a nonconforming bar/night club in a Local Retail Business District; subject to conditions.

Calendar No. 10-47: 10427 Clifton Boulevard

Ronald Marthaller appealed to establish use as a restaurant/bar with a front outdoor patio in a One-Family District; subject to conditions.

The following appeal dismissed by the Board on April 26, 2010 was reinstated on May 3, 2010.

Calendar No. 10-42: 1668 East 40th Street

Cash Mischka appealed from a Notice of Violation issued by the Department of Building and Housing on February 25, 2010.

Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

Re: Report of the Meeting of April 28, 2010

As required by the provisions of Section 3103.20(2) of the Codified Ordinances of the City of Cleveland, Ohio 1976, the following brief of action of the subject meeting is given for publication in The City Record:

* * *

Docket A-279-09.

RE: Appeal of Bojack's Meat & Poultry, Inc., Owner of the S-1 Storage — Moderate Hazard (Combustibles) High-Rise Building located on the premises known as 2000 West 14th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated July 22, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Based on all the preceding comments, a motion is in order at this time to REMAND the property 2000 West 14th Street to the Department of Building and Housing for supervision and any required further action, noting that no further Extensions of Time will be granted. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

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

* * *

Docket A-415-09.

RE: Appeal of Veterans Development, LLC, Owner of the R-2 Residential — Non-transient; Apartments (Shared Egress) Four Story Masonry Walls Wood Floors Property located on the premises known as 1519 East Boulevard from a CONDEMNATION ORDER — MAIN STRUCTURE, dated May 7, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-415-09 has been WITHDRAWN at the request of the Appellant.

* * *

Docket A-416-09.

RE: Appeal of Juan Cruz C/O Bank Of America, Owner of Two Dwelling Units Two-Family Residence Two Story Frame Property located on the premises known as 3321 West 46th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated July 28, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to find that the Violation Notice was properly issued; the property is REMANDED at

this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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

* * *

Docket A-417-09.

RE: Appeal of John Jackson, Owner of Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 1602-04 East 82nd Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 3, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

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

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

* * *

Docket A-418-09.

RE: Appeal of Harriet Chandler, Owner of Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 11504 Whitmore Avenue from a 30 DAY CONDEMNATION ORDER — MAIN STRUCTURE, dated August 4, 2008 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-418-09 has been WITHDRAWN at the request of the Appellant.

* * *

Docket A-419-09.

RE: Appeal of Raymond Watkins, Owner of the Two Dwelling Units Two-Family Residence Two Story Frame Property located on the premises known as 2822 East 125th Street from a NOTICE OF VIOLATION — INTERIOR/EXTERIOR MAINTENANCE, dated October 1, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to find that the Violation Notice was properly issued and to note that the violations have been abated. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

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

* * *

Docket A-420-09.

RE: Appeal of Christopher Chavers, Owner of One Dwelling Unit Single-Family Residence Two and One/half Story Frame Property located on the premises known as 3721 East 144th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated October 12, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant two (2) months in which to obtain all permits and demolish the garage, and six months in which to abate all violations on the property. The property is to remain secured, and the grounds debris-free and the grass cut and maintained during that period of time. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

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

* * *

Docket A-421-09.

RE: Appeal of Keith Duffield, Owner of MIXD Mixed Uses — Multiple Uses In One Building Two Story Wood Frame/Siding/Masonry Veneer Property located on the premises known as 4362-64 Pearl Road from a CONDEMNATION ORDER — MAIN STRUCTURE, dated July 10, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

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

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

* * *

Docket A-422-09.

RE: Appeal of Joseph L. Scott, Owner of Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 559 East 128th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated October 22, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Ap-

pellant two (2) months in which to obtain all permits, and six months in which to abate all violations on the property. The property must remain secured, and the grounds debris-free during that entire period of time. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

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

* * *

Docket A-425-09.

RE: Appeal of Grace Hospital, Owner of Two Dwelling Units Two-Family Residence Two and One/half Story Wood Frame/Siding/Masonry Veneer Property located on the premises known as 2267 West 14th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 4, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant sixty (60) days in which to paint the exterior of the building and six (6) months in which to submit a plan for review to the City for any requested further extensions of time. The property is to remain secured, and the grounds debris-free. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Saab.

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

* * *

Docket A-426-09.

RE: Appeal of Grace Hospital, Owner of MXD Mixed Uses — Multiple Uses In One Building Two and One/half Story Wood Frame/Siding/Masonry Veneer Property located on the premises known as 2253 West 14th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 4, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant sixty (60) days in which to paint the exterior of the building and six (6) months in which to submit a plan for review to the City for any requested further extensions of time. The property is to remain secured, and the grounds debris-free. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Saab.

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

Docket A-427-09.

RE: Appeal of Jose Soto, Owner of Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 395 East 148th Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated May 29, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, noting that the facility isn't suitable for human habitation, a motion is in order at this time to find that the Condemnation Order was properly issued. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that the Appellant did not appear. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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

* * *

Docket A-429-09.

RE: Appeal of Cuyahoga Real Estate, LLC, Owner of the Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 3887 West 33rd Street from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated September 9, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to find that the Violation Notice was properly issued based upon the photographs submitted. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that the Appellant did not appear. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

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

* * *

Docket A-430-09.

RE: Appeal of US Real Estate Services C/O Westway Realty, Owner of One Dwelling Unit Two & One/half Story Property located on the premises known as 11127 Mt. Carmel Road from a 14 DAY CONDEMNATION ORDER — MAIN STRUCTURE, dated August 20, 1996 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-430-09 has been WITHDRAWN at the request of the Appellant.

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Docket A-431-09.

RE: Appeal of Beverly A. Banks, Owner of One Dwelling Unit Single-Family Residence Two and One/half

Story Property located on the premises known as 11229 Continental Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 10, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

No action this date, the docket will be rescheduled for May 12, 2010.

* * *

Docket A-432-09.

RE: Appeal of Ossie Hill, Owner of Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 11709 Iowa Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated August 4, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

No action this date, the docket will be rescheduled for May 12, 2010.

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Docket A-433-09.

RE: Appeal of Wallace Rehm, Owner of Three Dwelling Units Three-Family Residence Two and One/half Story Frame Property located on the premises known as 1723 West 32nd Street from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 19, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

Docket A-433-09 has been WITHDRAWN at the request of the Appellant.

* * *

Docket A-434-09.

RE: Appeal of E. 79th Redevelopment Ltd., Owner of the F-2 Factory — Low Hazard (None-combustibles) Three Story Masonry Walls/Wood Floors Property located on the premises known as 8107 Grand Avenue from a CONDEMNATION ORDER — MAIN STRUCTURE, dated November 8, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant sixty (60) days in which to present documentation to the Department of Building and Housing regarding the disposition of the property. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Bradley.

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

Docket A-435-09.

RE: Appeal of Rockefeller Building Associates, Owner of the S-2 Storage — Low Hazard (Non-Combustibles) Garage Property located on the premises known as 621 Frankfort Avenue from a CONDEMNATION ORDER — GARAGE, dated November 12, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to REMAND the property at 621 Frankfort Avenue to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saunders.

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

* * *

Docket A-437-09.

RE: Appeal of Cecil Witcher, Owner of the Two Dwelling Units Two-Family Residence Two and One/half Story Frame Property located on the premises known as 11025 Mt. Overlook Avenue from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, dated December 1, 2009 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant three (3) months in which to abate the violations. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.

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

* * *

Docket A-88-10.

RE: Appeal of Giuseppe (Joe) Tieri, Owner of the One Dwelling Unit Single-Family Residence Two and One/half Story Frame Property located on the premises known as 2015 West 83rd Street from a VACATE ORDER, dated January 26, 2010 of the Director of the Department of Building and Housing, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to find that the Vacate Order was properly issued and to grant the Appellant thirty (30) days in which to abate the violations or dispose of the property, and to require that the property remain secure during that period of time. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.

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

Docket A-115-10.

RE: Appeal of The K & D Group, 668 Atrium US, Owner of the Property located on the premises known as 668 Euclid Avenue from an ADJUDICATION ORDER (OBC Table 704.8: openings are not permitted three feet or less from the property line), dated August 28, 2008; and from an ADJUDICATION ORDER (OBC Table 601: the structural frame in a Type 1B Building must be 2-hour fire rated, Footnote & permits structural frame and bearing walls to be reduced by 1 hour when supporting roof only), dated November 20, 2009 of the Director of the Department of Building and Housing requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to permit the windows to remain without window washing type sprinklers, noting that the building is occupied and fully sprinkled; and to grant the variance to the three (3) feet that would be required to allow the windows not to be protected, and to require that the vents be relocated should the occupancy or the use of the alley change to a more hazardous condition or that would otherwise make the vents hazardous or ineffective. The variance is granted to permit the structural like elements to be painted with other than a fire proofing material, noting that there is no structural function for the building. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Gallagher.

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

* * *

Docket A-147-10.

RE: Appeal of Nick VROUTOS, Owner of the Property located on the premises known as 612 Prospect Avenue from an ADJUDICATION ORDER (proposed temporary installation of a 70" x 20" vinyl wall banner), dated April 19, 2010 of the Director of the Department of Building and Housing requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance to the size requirement and permit the sign to be installed for a period of approximately sixty (60) days in the proposed location. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Saab.

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

* * *

EXTENSION OF TIME:

Docket A-81-09 — Tony H. Smith, Sr. — 10001 Adams Avenue:

A motion is in order at this time to grant the Extension Of Time requested, noting that all permits must be pulled and the property is to remain secured as required and the grounds groomed. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required

further action. Motion so in order. Motioned by Mr. Bradley and seconded by Mr. Gallagher.

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

* * *

AMENDED RESOLUTIONS:

FROM: Docket A-265-09 — Beautiful Signage, Ltd. & Marketing Holdings Inc. — 2000 West 14th Street:

A motion is in order at this time to grant Beautiful Signage, Ltd. & Marketing Holdings Inc. fourteen (14) days in which to submit a plan to the City for approval, and thirty (30) days in which to complete the plan. The Board is ordering that access be granted to Beautiful Signage, Ltd. & Marketing Holdings Inc. to tour the building and to do whatever investigation they have to do during that period of time; and to order Bojack's Meat & Poultry, Inc. to maintain 24-hour, seven (7) day a week security. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned Mr. Saunders and seconded by Mr. Gallagher.

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

TO: Docket A-265-09 — Beautiful Signage, Ltd. & Marketing Holdings Inc. — 2000 West 14th Street:

A motion is in order at this time to find that Beautiful Signage is not in possession and control of the property and therefore cannot be held to the time limits presented. The property is REMANDED to the Department of Building and Housing for supervision and any required further action, noting that this resolution is transferable to Docket A-111-10. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Gallagher.

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

* * *

FROM: Docket A-399-09 — Gaynell C. Sims-Jones — 1442 Ansel Road:

A motion is in order at this time to grant the Appellant thirty (30) days in which to obtain permits and six (6) months in which to abate all violations on the property. The property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action, noting that the Building Department has agreed to assist the Appellant in residency and observe carefully the rehabilitation of the project. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Gallagher.

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

TO:

A motion is in order at this time to grant the Appellant sixty (60) days in which to obtain permits and six (6) months in which to abate all violations on the property, with extensions of time for satisfactory progress. The property is REMANDED at this time to the Department of Building and Housing for super-

vision and any required further action. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Gallagher.

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

* * *

APPROVAL OF RESOLUTIONS FROM MARCH 31, 2010:

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

- A-333-09—Albert J. Hornyak.
- A-348-09—Ebony Gill.
- A-363-09—Linda V. Wolf.
- A-366-09—Jitendra Kapasi.
- A-368-09—Mark Fox-Morgan.
- A-370-09—Nathmi Iwais.
- A-371-09—Denise Williams.
- A-375-09—Thor Real Estate, LLC.
- A-376-09—Thor Real Estate, LLC.
- A-378-09—Stewardship Fund, LP.
- A-379-09—Nick Dionisopoulos.
- A-380-09—Rosevelt Tinnin.
- A-381-09—UrSur Development, Inc.
- A-382-09—World Pentecostal Church.
- A-383-09—Woodrow Garrick.
- A-386-09—Ohio Redevelopment Group.
- A-387-09—DeWayne McBride.
- A-388-09—Antwan Golphin.
- A-389-09—Rachel R. Calgie.
- A-390-09—Rachel R. Calgie.
- A-391-09—Wells Fargo Bank, N.A.
- A-393-09—Yaser Najjar & Subhi Alan.
- A-394-09—Andrew Gorski.
- A-395-09—Linda L. Welch.
- A-396-09—Ann Shotwell.

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

* * *

APPROVAL OF MINUTES FROM MARCH 31, 2010:

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

March 31, 2010

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

* * *

APPROVAL OF RESOLUTIONS FROM APRIL 14, 2010:

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

- A-265-09—Beautiful Signage, Ltd.
- A-360-09—Thomas Embrogno.
- A-369-09—Gary M. Barrow.
- A-384-09—Raymond R. Frolich.
- A-392-09—Jason L. Bulman.
- A-397-09—Timothy Campbell.

- A-398-09—Laura Bolden.
- A-399-09—Gaynell C. Sims-Jones.
- A-400-09—FJG Inc.
- A-401-09 — Jennifer C. Heinert O'Leary.
- A-402-09 — Green Monster Real Estate.
- A-403-09—Pamela Cowgill.
- A-405-09—Neil Clough.
- A-409-09—Charles L. Brown Jr.
- A-410-09—Christopher M. Simmons.
- A-411-09—Khadija Samiallah.
- A-412-09—Khadija Samiallah.
- A-413-09—Absolute Capital, Inc.
- A-414-09—Bobby Lawrence.
- A-424-09—Neil Clough.
- A-428-09—National Investment Group.
- A-447-09—Continental Grinding.
- A-62-10—Loretta Brent Childs.
- A-121-10—Cleveland Hopkins Airport.

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

* * *

APPROVAL OF MINUTES FROM APRIL 14, 2010:

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

April 14, 2010

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

* * *

Secretary

PUBLIC NOTICE

NONE

NOTICE OF PUBLIC HEARING

Notice of Public Hearing By the Council Committee On City Planning

Mercedes Cotner Committee Room 217 City Hall, Cleveland, Ohio On Wednesday, May 12, 2010 1:00 p.m.

Notice is hereby given to all interested property owners that the Council Committee on City Planning will hold a public hearing in the Mercedes Cotner Committee Room 217, City Hall, Cleveland, Ohio, on Wednesday, May 12, 2010, at 1:00 p.m., to consider the following ordinances now pending in the Council:

Ord. No. 368-10

By Council Member Zone. An ordinance changing the Use, Area and Height Districts of lands located on W. 65th Street between Fir Avenue and Madison Avenue and lands south of Madison along the railroad ending at Aspen Ct. to Two Family Residential, a 'B' Area District and a '1' Height District (Map Change No. 2298 Sheet No. 1).

Ord. No. 460-10

By Council Member Cummins. An ordinance to change the Use District of land on the northeast corner of Seymour Avenue and W. 30th Street from Two Family Residential to Residence-Industry. (Map Change No. 2300; Sheet No. 1).

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

Phyllis E. Cleveland
Chair
Committee on City Planning

April 28, 2010 and May 5, 2010

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, MAY 19, 2010

File No. 80-2010 — Rental and Laundry of Work Clothing, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance pending, passed by the Council of the City of Cleveland, pending.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** MONDAY, MAY 10, 2010 AT 10:30 A.M. THE CLEVELAND CITY HALL, DIVISION OF PURCHASES AND SUPPLIES, ROOM 128, 601 LAKESIDE, CLEVELAND, OHIO 44114.

April 28, 2010 and May 5, 2010

WEDNESDAY, MAY 26, 2010

File No. 77-2010 — Valves and Appurtenances for Group A-C, for the Division of Water, Department of Public Utilities, as authorized by Section 129.25 of the Codified Ordinances of Cleveland, Ohio 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** THURSDAY, MAY 6, 2010 AT 10:30 A.M. THE DIVISION OF WATER — DISTRIBUTION AND MAINTENANCE, 4600 HARVARD AVENUE, PIPE REPAIR ROOM, NEWBURGH HEIGHTS, OHIO 44105.

File No. 78-2010 — Purchase of Various Types of Valves, Actuators and Appurtenances and Labor and Materials to Maintain and Repair Various Types of Valves, Actuators and Appurtenances Re-Bid for Item #2 and Item #3, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 696-09, passed by the Council of the City of Cleveland, June 8, 2009.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** MONDAY, MAY 10, 2010 AT 2:30 P.M. THE PUBLIC UTILITIES BUILDING, FOURTH FLOOR SOUTH CONFERENCE ROOM, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

File No. 79-2010 — Labor and Materials to Test, Evaluate, Repair or Replace Roofs and Appurtenances, for the Division of Water, Department of Public Utilities, as authorized by Ordinance Nos. 695-09 and 87-10, passed by the Council of the City of Cleveland, June 8, 2009 and March 22, 2010.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** FRIDAY, MAY 7, 2010 AT 2:30 P.M. THE PUBLIC UTILITIES BUILDING, FIRST FLOOR AUDITORIUM, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

April 28, 2010 and May 5, 2010

THURSDAY, MAY 27, 2010

File No. 83-2010 — Electric Motors and Pumps, for the Division of Property Management, Department of Parks, Recreation and Properties, as authorized by Section 181.101, of the Codified Ordinances of Cleveland, Ohio 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** FRIDAY, MAY 14, 2010 AT 2:30 P.M. THE CLEVELAND CITY HALL, ROOM 12 (CUSTODIAN'S OFFICE), 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

May 5, 2010 and May 12, 2010

THURSDAY, JUNE 3, 2010

File No. 81-2010 — New Downtown Bike Station Gateway Garage Huron Avenue and East 4th Street, Cleveland, Ohio 44113, for the Division of Architecture, Department of Public Service, as authorized by Ordinance No. 808-09, passed by the Council of the City of Cleveland, June 8, 2009.

THERE WILL BE A **NON-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 ONLY (NO COMPANY CHECKS, NO CASH AND NO CREDIT CARDS WILL BE ACCEPTED).

THERE WILL BE A **MANDATORY PRE-BID MEETING** TUESDAY, MAY 18, 2010 AT 10:00 A.M. THE CLEVELAND CITY HALL, DIVISION OF ARCHITECTURE, CONFERENCE ROOM, ROOM 517, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

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

May 5, 2010 and May 12, 2010

THURSDAY, JUNE 10, 2010

File No. 82-2010 — Cubicle Renovation at TASC Building, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 1737-08, passed by the Council of the City of Cleveland, December 8, 2008.

THERE WILL BE A **NON-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 ONLY (NO COMPANY CHECKS, NO CASH AND NO CREDIT CARDS WILL BE ACCEPTED).

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** MONDAY, MAY 17, 2010 AT 1:00 P.M. THE JULIUS CIACCIA, JR. TECHNOLOGY AND SECURITY CENTER, IN THE FIRST FLOOR CONFERENCE ROOM, 1230 CHARLON ROAD, CLEVELAND, OHIO 44117.

May 5, 2010 and May 12, 2010

ADOPTED RESOLUTIONS AND ORDINANCES

Res. No. 555-10
By Council Members Brancatelli, Westbrook, Mitchell, Cleveland, Polensek, Sweeney, Kelley, Brady, Zone, Conwell and Cummins.

An emergency resolution urging the Ohio House of Representatives to support and pass H.B. 323.

Whereas, the foreclosure crisis continues to result in thousands of foreclosure filing in the City of Cleveland; and

Whereas, banks and mortgage companies fail to execute on the decree for sale of the property; and

Whereas, the banks and foreclosure companies fail to assume title per the legal decree of foreclosure; and

Whereas, these "toxic title" properties become unmarketable — then become a dangerous blight and are harmful to the neighborhood health, safety and welfare; and

Whereas, the Ohio General Assembly is considering H.B. 323 that will provide assistance to local government to address bank "walkaways and toxic titles"; and

Whereas, H.B. 323 provides a systematic judicial authority to remedy the failure to execute a foreclosure decree; and

Whereas, H.B. 323 provides for the following remedies:

- requires a preliminary judicial report or a commitment for an owner's fee policy of title insurance to be filed along with the filing of the complaint for foreclosure instead of 14 days after filing the complaint as under existing law;

- requires the plaintiff in a foreclosure action to file a motion requesting a default judgment under specified circumstances and establishes that failure to file as required results in dismissal of the action;

- permits a plaintiff requesting a default judgment to also request a transfer in lieu of sale and in lieu of the right to a deficiency judgment under specified circumstances;

- prohibits the sale at a sheriff's auction of a foreclosed residential property that constitutes a public nuisance and prohibits the county recorder from recording the deed for such a property;

- requires a probable cause hearing to determine if a foreclosed property could be a public nuisance and specifies the basis upon which a court could find probable cause;

- permits a plaintiff or other lien holder to present information at the probable cause hearing, to pledge to abate the nuisance while the foreclosure action continues, or to purchase the property at auction and abate the nuisance after gaining title to the property;

- grants the court continuing jurisdiction when it grants permission to abate a nuisance;

- permits specified interested parties to intervene in a foreclosure action to bring a nuisance abatement action against the property;

- requires the plaintiff to file for a writ of execution of a judgment on a foreclosed residential property within 60 days after the clerk files the judgment, and establishes that failure to file is grounds for the court deeming the property abandoned unless good cause is shown;

- generally prohibits a plaintiff and other lien holders from withdrawing or seeking dismissal of a petition for a writ of execution or an order of sale unless for good cause;

- enables a court to deem foreclosed residential properties abandoned when the plaintiff does not seek a writ of execution as required or a property fails to sell at sheriff's auction three times;

- provides for the transfer of abandoned property to the board of county commissioners for use pursuant to rules the commissioners adopt;

- generally exempts a board of county commissioners from liability with respect to abandoned properties that are transferred to it;

- places additional duties on the clerk of courts with respect to notices, and requires clerk to collect an additional fee of \$20 for each foreclosure filing;

- permits a plaintiff to make a written bid on a property prior to a sheriff's sale and enables the sheriff to open the auction at that price;

- prohibits charging fees to a purchasing lien holder in a sheriff's sale prior to the time the purchase price is due;

- establishes a procedure for the court to confirm a sale at auction by deeming the sale final if no objections have been received;

- enables purchaser at sheriff's sale to submit the deed for recording upon payment of balance of price along with an affidavit promising to file, and establishes that failure to do so may result in contempt of court;

- establishes new procedures for pricing residential properties at a sheriff's sale;

- expands the Public Nuisance Law to include land, subsidized housing, and any type of building — not just buildings that contain residential units;

- excludes from the Public Nuisance Law buildings with three or fewer residential units and that are owner occupied unless the building is undergoing foreclosure and is the subject of a nuisance probable cause hearing; and

- provides that properties foreclosed due to delinquent taxes that are forfeited to a political subdivision, school district, or land bank are free of taxes, assessment charges, penalties, interest, costs, and subordinate liens; and

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

Section 1. That this Council urges the Ohio House of Representatives to support and pass H.B. 323.

Section 2. That the Clerk of Council is hereby directed to transmit copies of this resolution to Governor Ted Strickland, Speaker of the House Armond Budish, Ohio House Representative Dennis Murray, Ohio House Representatives, for the City of Cleveland, Barbra Boyd, Robin Belcher, Sandra Williams, Michael DeBose, Michael Skindell and Mike Foley, and City of Cleveland Mayor Frank Jackson.

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 26, 2010.

Effective April 29, 2010.

Res. No. 556-10.

By Council Members Cimperman, Mitchell and Cummins.

An emergency resolution supporting President Obama's Memorandum for the Secretary of Health and Human Services on the subject of "Respecting the Rights of Hospital Patients to Receive Visitors and to Designate Surrogate Decision Makers for Medical Emergencies"; and urging Governor Strickland to issue a similar memorandum, and the Ohio General Assembly to adopt a Patients' Bill of Rights to give each patient the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members.

Whereas, on April 15, 2010, President Obama issued a Memorandum for the Secretary of Health and Human Services regarding the subject of "Respecting the Rights of Hospital Patients to Receive Visitors and to Designate Surrogate Decision Makers for Medical Emergencies"; and

Whereas, in the Memorandum, President Obama addresses the problem of patients all across America being denied the caring of a loved one to comfort them and act as a legal surrogate; and

Whereas, President Obama highlighted widows or widowers denied the comfort of a good friend, members of religious orders unable to choose someone other than an immediate family member to visit them and make medical decisions, and gay and lesbian Americans who are often barred from the bedsides of the partners with whom they may have spent decades of their lives; and

Whereas, for these Americans, the failure to have their wishes respected concerning who may visit them or make medical decisions on their behalf has real consequences, both in obtaining medical information, and in senselessly denying patients comfort of companionship; and

Whereas, President Obama acknowledged that many States, including North Carolina, Delaware, Nebraska, and Minnesota, have tried to end these problems by amending or adopting a Patients' Bill of Rights to give each patient at every hospital in the State "the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members, regardless of whether the visitors are legally related to the patient"; and

Whereas, President Obama stated that his "Administration can expand on these important steps to ensure that patients can receive compassionate care and equal treatment during their hospital stays"; and

Whereas, President Obama requested that the Secretary of Health and Human Services take certain steps, including but not limited to, 1) initiating rulemaking to ensure that hospitals that participate in Medicare or Medicaid respect the rights of patients to designate visitors, and may not deny visitation privileges on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, or disability; 2) ensuring that all hospitals participating in Medicare and

Medicaid are in full compliance with regulations promulgated to guarantee that all patients' advance directives, such as durable powers of attorney and health care proxies, are respected, and 3) providing additional recommendations to the President within 180 days on actions the Department of Health and Human Services can take to address hospital visitation, medical decisionmaking, or other health care issues that affect LGBT patients and their families; and

Whereas, patients in the State of Ohio would benefit from a similar memorandum being issued by Governor Ted Strickland; and

Whereas, patients in the State of Ohio would benefit from the Ohio General Assembly adopting a "Patients' Bill of Rights" similar to that of other states like North Carolina, to give each patient at every hospital in the State "the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members, regardless of whether the visitors are legally related to the patient"; 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 supports President Obama's Memorandum for the Secretary of Health and Human Services on the subject of "Respecting the Rights of Hospital Patients to Receive Visitors and to Designate Surrogate Decision Makers for Medical Emergencies"; and urging Governor Strickland to issue a similar memorandum, and the Ohio General Assembly to adopt a Patients' Bill of Rights to give each patient the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members.

Section 2. That the Clerk of Council is hereby directed to transmit certified copies of this resolution to President Obama, Governor Ted Strickland, the 128th Ohio General Assembly, Equality Ohio, The Lesbian Gay Bisexual Transgender Community Center of Greater Cleveland, TransFamily, Cleveland Stonewall Democrats, and Mayor Jackson.

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 26, 2010.

Effective April 29, 2010.

Res. No. 566-10.

By Council Member Cleveland.

An emergency resolution supporting the MidTown Cleveland, Inc.'s application to the State of Ohio Job Ready Sites Program for the Euclid Tech Center Project at 6700 Euclid Ave., Cleveland Ohio 44103.

Whereas, MidTown Cleveland, Inc. ("Applicant") and its partner LCA 6700 Euclid, LLC seek to pursue the Euclid Tech Center Project ("Project"); and

Whereas, this Project would result in the beneficial re-use of a vacant, under-utilized property located along the Euclid Corridor, where the City of Cleveland has made significant investment to encourage sustainable economic redevelopment; and

Whereas, the Connecting Cleveland 2020 Citywide Plan and the 2005 MidTown Master Plan identify the Project site as an economic development and new construction opportunity; and

Whereas, the Project would contribute directly to the Cleveland Health and Technology Corridor, endorsed by the City of Cleveland; and

Whereas, the Project would increase the City's real estate options for tech and biomedical firms desiring close proximity to institutional anchors such as Case Western Reserve University, University Hospitals, the Cleveland Clinic, Cleveland State University, Cuyahoga Community College and others; and

Whereas, the City of Cleveland seeks to encourage public-private partnerships with nonprofits such as MidTown Cleveland, Inc. and LCA 6700 Euclid, LLC to increase the availability of high-quality real estate development and facilities that meet the needs of companies in high-growth areas such as biomed; and

Whereas, the applicant is seeking funding for the Project through the State of Ohio Job Ready Sites Program administered by the Ohio Department of Development;

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

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

Section 1. That this Council hereby supports the MidTown Cleveland, Inc.'s application to the State of Ohio Job Ready Sites Program for the Euclid Tech Center Project at 6700 Euclid Ave., Cleveland Ohio 44103.

Section 2. That the Clerk of Council is hereby directed to transmit certified copies of this resolution to the Ohio Department of Development, MidTown Cleveland, Inc. and LCA 6700 Euclid, LLC.

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 26, 2010.
Effective April 29, 2010.

Res. No. 568-10.
By Council Member Cimperman.
An emergency resolution objecting to the transfer of ownership of a D5 and D6 Liquor Permit to 1212-16 West 6th Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a D5 and D6 Liquor Permit from Liquid Café, LLC, DBA Liquid, 1212-16 West 6th Street, 1st floor and mezzanine and patio, Cleveland, Ohio 44113, Permanent Number 5227834 to 1212 West 6th Street, LLC, DBA Liquid, 1212-16 West 6th Street, 1st floor and mezzanine and patio, Cleveland, Ohio 44113, Permanent Number 9115393; and

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

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

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

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

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

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

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

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

Section 1. That Council does hereby record its objection to the transfer of ownership of a D5 and D6 Liquor Permit from Liquid Café, LLC, DBA Liquid, 1212-16 West 6th Street, 1st floor and mezzanine and patio, Cleveland, Ohio 44113, Permanent Number 5227834 to 1212 West 6th Street, LLC, DBA Liquid, 1212-16 West 6th Street, 1st floor and mezzanine and patio, Cleveland, Ohio 44113, Permanent Number 9115393; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

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

Adopted April 26, 2010.
Effective April 29, 2010.

Res. No. 569-10.
By Council Member Dow.
An emergency resolution with - drawing objection to the transfer of ownership of a C1 and C2 Liquor Permit at 7318 Superior Avenue, and repealing Resolution No. 105-10, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a C1 and C2 Liquor Permit to 7318 Superior Avenue by Resolution No. 105-10 adopted by the Council on January 25, 2010; and

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

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

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

Section 1. That objection to the transfer of ownership of a C1 and C2 Liquor Permit to Sooso II, LLC, 7318 Superior Avenue, Cleveland, Ohio 44106, Permanent Number 8374497 be and the same is hereby withdrawn and Resolution No. 105-10, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate transfer thereof.

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

Adopted April 26, 2010.
Effective April 29, 2010.

Res. No. 570-10.
By Council Member Reed.
An emergency resolution objecting to the transfer of ownership of a C1 and C2 Liquor Permit to 4563 Warner Road.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a C1 and C2 Liquor Permit from Basimas Market, Inc., 4563 Warner Road, Cleveland, Ohio 44105, Permanent Number 0498906 to Padmavati Stores, Inc., DBA Cleveland Convenience Store, 4563 Warner Road, Cleveland, Ohio 44105, Permanent Number 6620004; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is

already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

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

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

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

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

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

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

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

Section 1. That Council does hereby record its objection to the transfer of ownership of a C1 and C2 Liquor Permit from Basimas Market, Inc., 4563 Warner Road, Cleveland, Ohio 44105, Permanent Number 0498906 to Padmavati Stores, Inc., DBA Cleveland Convenience Store, 4563 Warner Road, Cleveland, Ohio 44105, Permanent Number 6620004; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

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

Adopted April 26, 2010.

Effective April 29, 2010.

Res. No. 571-10.

By Council Member Reed, Brancatelli, K. Johnson, Polensek, Mitchell, Cleveland, Cummins, Zone, Brady, Kelley, Miller, Pruitt, Dow, Westbrook, J. Johnson and Conwell.

An emergency resolution urging the United States Congress to pass H. B. 4812 and S. B. 3206 to provide

\$23 billion in funding to state and local government to avoid the potential layoffs of more than 300,000 education jobs nationwide, including over 500 teachers in the Cleveland Municipal School District.

Whereas, Senator Tom Harkin (D-IA), Chairman of the Health, Education, Labor and Pensions Committee and of the Senate Appropriations panel that funds education initiatives, introduced H. B. 4812 and S. B. 3206, the Keep Our Educators Working Act on April 14, 2010; and

Whereas, the bill will create a \$23 billion Education Jobs Fund to help keep teachers, principals, librarians and other school personnel on the job as states face crippling budget shortfalls; and

Whereas, the bill will help avoid a nationwide massive wave of layoffs in our schools and institutions of higher learning that could weaken our economic recovery and cause serious damage to our education system; and

Whereas, the Keep Our Educators Working Act will create an Education Jobs Fund modeled after the State Fiscal Stabilization Fund (SFSF) that was established in the American Recovery and Reinvestment Act (the 'Recovery Act'); and

Whereas, the SFSF is currently supporting more than 300,000 education jobs, such as teachers, principals, librarians, and counselors, and is widely credited with mitigating the impact of the recent recession; however, even with the SFSF, schools across the country have laid off workers, and the job outlook is worse for the 2010-2011 school year; and

Whereas, additional resources are needed to help states and districts avoid a "funding cliff" that would result in even more layoffs; and

Whereas, the \$23 billion included in the Keep Our Educators Working Act is roughly half of the amount dedicated to state aid in the SFSF, and is equal to the amount passed by the House in its December 2009 jobs legislation; and

Whereas, funding could be used for:

- compensation and benefits and other expenses necessary to retain existing employees, and for the hiring of new employees, in order to provide early childhood, elementary, secondary, or postsecondary educational and related services; or
- on-the-job training activities for education-related careers; and

Whereas, this Council believes that passage is necessary to avoid the potential layoffs of over 500 teachers in the Cleveland Municipal School District that would devastate the education of Cleveland's children; and

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

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

Section 1. That this Council urges the United States Congress to pass H. B. 4812 and S. B. 3206 to provide \$23 billion in funding to state and local government to avoid the potential layoffs of more than 300,000 education jobs nationwide, including over 500 teachers in the Cleveland Municipal School District.

Section 2. That the Clerk of Council is hereby directed to transmit certified copies of this resolution to the United States Congress, and Mayor Jackson.

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 26, 2010.

Effective April 29, 2010.

Ord. No. 457-10.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the issuance and sale of Bonds in the maximum principal amount of \$11,400,000 for the purpose of providing funds to improve facilities for the discharge of governmental functions or for services otherwise benefiting public safety, health and welfare and authorizing related matters.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Eleven Million Four Hundred Thousand Dollars (\$11,400,000) (the "Series 2010 Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Series 2010 Bonds shall be payable from and secured by income tax revenues of the City remaining after deposits required under the General Bond Ordinance (as defined in Section 2) are made to the escrow agent for the City's general obligation bonds; and

Whereas, the American Recovery and Reinvestment Act of 2009 amended the Internal Revenue Code of 1986, as amended (the "Code"), to authorize new types of obligations that may be issued on or before January 1, 2011 by states and political subdivisions that may provide lower cost of financing for public improvements, including taxable governmental bonds referred to as "Build America Bonds" and meeting the requirements of Section 54AA of the Code ("BABs"), of which one type is subsidized through federal tax credits to investors in the bonds ("Tax Credit BABs") and the other type is subsidized by a refundable credit paid to the issuer of the bonds equal to 35% of the amount of interest paid on the bonds ("Direct Payment BABs") and taxable governmental bonds referred to as Recovery Zone Economic Development Bonds and meeting the requirements of Section 1400U-2 of the Code subsidized by a refundable credit paid to the issuer of the bonds equal to 45% of the amount of the interest paid on the bonds ("RZED Bonds"); and

Whereas, the United States Department of the Treasury made an allocation to the City in the amount of \$16,590,000 for RZED Bonds, and this Council by Ordinance No. 1384-09, passed October 5, 2009 designated the entire geographical territory

of the City as a Recovery Zone under Section 1400U-1 of the Code; and

Whereas, the Series 2010 Bonds not issued as RZED Bonds may be issued in whole or in part as Tax Credit BABS or Direct Payment BABS or as obligations to which Section 103 of the Code applies, the interest on which is excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds"); and

Whereas, the Director of Finance, as fiscal officer of this City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2010 Bonds is at least five (5) years, as evidenced by the certificate contained in File No. 457-10-A; and

Whereas, the authorization for issuance of the Series 2010 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 Series 2010 Bonds in an aggregate principal amount not to exceed Eleven Million Four Hundred Thousand Dollars (\$11,400,000) for the purpose of providing funds to improve facilities for the discharge of governmental functions or for services otherwise benefitting the public safety, health and welfare, including constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving buildings, structures and other facilities in, of and for City Hall, police stations, fire stations, emergency medical centers, service stations, waste collection, transfer and disposal facilities, correctional facilities, health facilities, centers and other facilities, the provision of necessary fixtures, furnishings, equipment, information technology hardware and software, utilities, site improvements and appurtenances, and the acquisition of vehicles, 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.

Section 2. Authority, Security and Source of Payment. The Series 2010 Bonds shall be issued pursuant to the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the Charter of the City, and this Ordinance for the purpose stated in Section 1. The Series 2010 Bonds shall be payable from and secured by the income tax revenues of the City on a basis subordinate to the security given to the General Obligation Bonds of the City ("General Obligation Bonds")

under Ordinance No. 1749-80 passed by the Council on October 8, 1980, as amended by Ordinance No. 1112-83 passed by the Council on May 6, 1983, and Ordinance No. 944-96, passed by the Council 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"). The debt service on the Series 2010 Bonds shall be payable from income tax collections remaining after depositing with the escrow agent under the General Bond Ordinance the amount required for the payment of debt service on the City's General Obligation Bonds issued and outstanding, from time to time, under the General Bond Ordinance. The Series 2010 Bonds shall be issued and secured under the terms of the Trust Indenture dated as of April 1, 2008 (the "Indenture") between the City and U.S. Bank National Association, as trustee (the "Trustee"). The Indenture secures five series of Subordinate Lien Income Tax Bonds issued on May 1, 2008 (the "Series 2008 Bonds") and permits the issuance of additional bonds, subject to certain restrictions. The Series 2008 Bonds, the Series 2010 Bonds and any additional bonds issued under the Indenture are collectively referred to in this Ordinance as the "Bonds."

Section 3. Pledge and Covenant to Maintain Income Tax. So long as Bonds are outstanding under the Indenture, the City pledges the municipal income taxes of the City and grants a lien thereon, subordinate to the lien granted in the General Bond Ordinance as security for the General Obligation Bonds of the City issued and outstanding under the General Bond Ordinance, to the full extent required to meet debt charges payable on the Bonds issued and outstanding, from time to time, under the Indenture. The City covenants to appropriate annually sufficient amounts from the income taxes to pay all debt charges on the General Obligation Bonds, the Bonds outstanding under the Indenture, any Parity Obligations and the Unrestricted Income Tax Obligations (each as defined in the Indenture). The City further covenants that so long as any Bonds are outstanding under the Indenture, the City shall not repeal or amend, or suffer the repeal of, any ordinance for the levy or collection of its income taxes in any manner or to such extent that the City would not be able to meet its obligations to the holders of the Bonds.

Section 4. Terms of the Series 2010 Bonds. The Series 2010 Bonds shall be issued in fully registered form. The Series 2010 Bonds may be issued in one or more series or sub-series. The Series 2010 Bonds initially shall be delivered only in book-entry form, shall be registered in the name of the Depository (as defined in the Indenture) or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of

the Indenture and the Second Supplement identified in Section 7. The Series 2010 Bonds shall be designated "Public Facilities Improvement Bonds, Series 2010" and may contain such further designation as provided in the Certificate of Award identified below. The Series 2010 Bonds shall be issued in one lot as fully registered Series 2010 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2010 Bonds shall be numbered as determined by the Director of Finance. The Series 2010 Bonds shall be signed by the officials of the City and in the manner set forth in the Indenture.

The Series 2010 Bonds shall be dated as of May 15, 2010, or such other date specified in the certificate of award providing for the final terms of the Series 2010 Bonds and the sale of the Series 2010 Bonds in accordance with this Ordinance (the "Certificate of Award"). Notwithstanding and as an exception to Ordinance No. 1756-09, as may be amended, the respective principal amounts, if any, of the Series 2010 Bonds to be issued as Tax-Exempt Bonds, Direct Payment BABS, Tax Credit BABS and RZED Bonds shall be determined by the Director of Finance, based on the advice of a financial advisor, in the Certificate of Award, having due regard to the best interest of and financial advantages to the City; provided that the aggregate principal amount of Series 2010 Bonds issued as Tax-Exempt Bonds, Direct Payment BABS, Tax Credit BABS and RZED Bonds; shall not exceed the amount stated in Section 1. The Series 2010 Bonds shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed six percent (6%) per year if issued as Tax-Exempt Bonds or eight percent (8%) per year if issued as BABS or RZED Bonds. Interest on the Series 2010 Bonds shall be payable semi-annually on April 1 and October 1, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2010 Bonds shall mature in the years and principal amounts set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, and (ii) the final maturity date of the Series 2010 Bonds shall be no later than December 31, 2019. The Series 2010 Bonds stated to mature in any year may be issued as serial Series 2010 Bonds or as term Series 2010 Bonds payable prior to stated maturity pursuant to sinking fund redemption (the "Term Bonds"). The Director of Finance shall determine in the Certificate of Award whether any of the Series 2010 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 princi-

pal to be paid on each Mandatory Redemption Date (the "Mandatory Sinking Fund Redemption Requirements"). If any of the Series 2010 Bonds are issued as Term Series 2010 Bonds, the Term Bonds shall be redeemed pursuant to the 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 Trustee 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 in the Indenture and the Second Supplement).

The Series 2010 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 whole multiples of \$5,000, on the redemption dates and at the redemption prices specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City (i) for some or all of the Series 2010 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2010 Bonds calculated in a manner to make the bondholder whole for the loss of the investment or calculated as a percentage in excess of 100% of the principal amount redeemed.

If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond which is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised as provided in the Second Supplement.

If and to the extent provided in the Certificate of Award, the Series 2010 Bonds may be secured by a Debt Service Reserve Fund to be held by the Trustee under the Indenture. The principal amount of the Series 2010 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Bonds, subject to compliance with applicable federal tax laws.

Section 5. Sale of Series 2010 Bonds. The Series 2010 Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Series 2010 Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Series 2010 Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Series 2010 Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 12 and the Original Purchaser's offer to purchase the Series 2010 Bonds, including: the principal amount of the Series 2010 Bonds, the 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), terms and conditions under which any Series 2010 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2010 Bonds (if different from those set forth in Section 3) and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Series 2010 Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Series 2010 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 Series 2010 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 Series 2010 Bonds. The Director of Finance is authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2010 Bonds and the Original Purchaser agrees to buy the Series 2010 Bonds on terms consistent with this Ordinance and the Indenture, that are not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Series 2010 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award,

the Indenture and the Second Supplement, are in the best interest of the City and in compliance with all legal requirements.

Section 6. Application of Proceeds. The proceeds from the sale of the Series 2010 Bonds shall be applied as follows:

(a) to the payment of any providers of any Credit Support Instruments, the fees and expenses required to be paid by the City to obtain the Credit Support Instrument;

(b) to the Trustee, for deposit in the Interest Payment Account in the Debt Service Fund, the amount, if any, received by the City upon delivery of the Series 2010 Bonds as accrued interest from their dated date to the date of their delivery to the Original Purchaser;

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

(d) to the Trustee for deposit in the Project Fund, the balance of the proceeds (including any original issue premium received from the sale of the Series 2010 Bonds).

Section 7. Supplemental Indenture. The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Second Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2010 Bonds, redemption of Series 2010 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2010 Bonds, defeasance of the Series 2010 Bonds, and other terms consistent with this Ordinance and the Certificate of Award and approved by the Director of Finance as not substantially adverse to the City. The Second Supplement shall be approved as to form and correctness by the Director of Law. The determination by the Director of Finance that the provisions of the Second Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Second Supplement. As appropriate under the Charter, the Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments in addition to the Indenture and Second Supplement as may be necessary or appropriate to issue and sell the Series 2010 Bonds and to consummate the transactions authorized by this Ordinance.

Section 8. Bond Anticipation Notes. For the purpose of raising money in anticipation of the issuance of the Series 2010 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Eleven Million Four Hundred Thousand Dollars (\$11,400,000) (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"). The Notes, if sold as fixed rate obligations, shall bear interest at such rate, not exceeding three percent (3%) per year, and shall be payable on the date or dates, as shall be determined 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; shall be subject to redemption by the City at any time prior to maturity without penalty, unless the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, that the Notes not be redeemable prior to maturity or that a premium be paid on their prior redemption; shall be designated "Public Facilities Improvement Bond Anticipation Notes" or as otherwise provided in the Note Certificate of Award; 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). The provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Notes and pursuant to that authority and this Ordinance, the Director of Finance may determine in the Certificate of Award, based on the written advice of a financial advisor, that the City's best interests will be served by causing all or a portion of the Notes to be obligations bearing interest at variable rates. If the Director of Finance so determines, then the Director of Finance shall specify in the Certificate of Award the method and procedure by which the variable rate of interest to be borne by the variable rate Notes shall be determined; provided that the variable rate Notes shall not bear interest at a rate in excess of twenty-five percent (25%) per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Notes, and from time to time thereafter so long as the variable rate Notes are outstanding, with providers of Credit Support Instruments (as defined in Section 11) and others as may be determined by the Director of Finance, based on the written advice of a financial advisor, to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender, providing for liquidity or credit support for the payment of the variable rate Notes upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument. The Trustee shall be the authenticating agent, registrar, transfer agent and paying agent for the Notes. The Notes shall be signed by the officials of the City and in the manner set forth in the Indenture. The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased

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

Section 9. Official Statement; Continuing Disclosure. If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Series 2010 Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Series 2010 Bonds, as the case may be, and any necessary supplements and to authorize the use and distribution of each Official Statement and any supplements. The Director of Finance is authorized to sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in her judgment, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 the "SEC Rule." The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Notes or the Series 2010 Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Series 2010 Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement

made by the City for the benefit of the holders and beneficial owners of the Notes or the Series 2010 Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

Section 10. Federal Tax Considerations. (a) **Tax-Exempt Bonds.** The representations and covenants in this subsection (a) apply only to Series 2010 Bonds or Notes of a series issued and sold as Tax-Exempt Bonds.

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (i) the Tax-Exempt Bonds will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (B) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (ii) the interest on the Tax-Exempt Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) 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.

(b) **BABs and RZED Bonds.** The representations and covenants in this subsection (b) apply only to Series 2010 Bonds or Notes of a series issued and sold as BABs or RZED Bonds.

The City covenants that it will use, and will restrict the use and investment of, the proceeds of such Series 2010 Bonds or Notes in such manner and to such extent as may be necessary so that such Series 2010 Bonds or Notes will qualify as Tax Credit BABs or, Direct Payment BABs or RZED Bonds Bonds, as applicable, under the applicable provisions of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the Bonds to qualify and remain qualified as Tax Credit

BABs or Direct Payment BABs or RZED Bonds, as applicable, (ii) it will not take or authorize to be taken any actions that would adversely affect that tax status, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of such Series 2010 Bonds or Notes to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) 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 tax status under the Code.

(c) **Further Actions.** The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2010 Bonds and any Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2010 Bonds and any Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, the election to issue all or any portion of the Series 2010 Bonds or any Notes as Tax Credit BABs or Direct Payment BABs or to issue all or any portion of the Series 2010 Bonds as RZED Bonds, as applicable, and any of the elections provided for in Section 54AA, 149(f)(4)(C), or 1400U-2 of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2010 Bonds and any Notes or interest thereon or an entitlement to tax credits or direct cash payments relating thereto, or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing rebate amounts 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, which action shall be in writing and signed by the officer, (ii) 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 intended tax status of the Series 2010 Bonds and any Notes or the City's entitlement to receive one or more direct payments, and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2010 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2010 Bonds and any Notes, 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 direct payments or tax credits relating to the Series 2010 Bonds and any Notes and the tax status of the Series 2010 Bonds and any Notes.

Section 11. Credit Facilities and Ratings. If the Director of Finance determines it to be in the best interests of the City, based on the written advice of a financial advisor, the Director of Finance may obtain an insurance policy, letter of credit, standby bond purchase agreement or other credit enhancement instrument as further security for the payment when due of the principal of and interest on all or any portion of the Series 2010 Bonds or any Notes (a "Credit Support Instrument"). The Director of Finance may request a rating on the Series 2010 Bonds or Notes from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a Credit Support Instrument and/or a rating or ratings on the Series 2010 Bonds or Notes. The Director of Finance may enter into one or more agreements for Credit Support Instruments containing terms not materially inconsistent with this Ordinance or the Indenture. The expenditure of the amounts necessary to secure Credit Support Instruments 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 Series 2010 Bonds or Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 12. Financial Advisor. The Director of Finance may obtain the services of one or more financial advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Ordinance to be determined by the Director of Finance. The Director of Finance may rely on the written advice of any financial advisor so retained. Any financial advisor employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the Original Purchasers and any other party interested in the transaction.

Section 13. Open Meeting Determination. It is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and any of its committees and that all deliberations of this Council that resulted in these formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 14. 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 Series 2010 Bonds and the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Series 2010 Bonds or the Notes. It is further found and determined, and is repre-

sented and recited, that the provisions of Sections 28, 29, 32, 33 (including the provisions of Section 33 with respect to readings on three separate days or dispensing with such readings by a two-thirds vote of all members of the Council), 36, 37, 48 and all other applicable provisions of the City's Charter and the rules of this Council have been fully complied with and this Ordinance was passed in conformity therewith.

Section 15. Delivery to County Auditor. The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Series 2010 Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefore.

Section 16. Severability. Each section and each part of each section of this Ordinance is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is 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 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 17. 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. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Series 2010 Bonds or the Notes authorized herein.

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 Series 2010 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.

Section 18. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by

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

Passed April 26, 2010.

Effective April 29, 2010.

Ord. No. 458-10.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the issuance and sale of bonds in the maximum principal amount of \$8,900,000 for the purpose of providing funds to improve municipal parks and recreation facilities and authorizing related matters.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Eight Million Nine Hundred Thousand Dollars (\$8,900,000) (the "Series 2010 Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Series 2010 Bonds shall be payable from and secured by income tax revenues of the City remaining after deposits required under the General Bond Ordinance (as defined in Section 2) are made to the escrow agent for the City's general obligation bonds; and

Whereas, the American Recovery and Reinvestment Act of 2009 amended the Internal Revenue Code of 1986, as amended (the "Code"), to authorize new types of obligations that may be issued on or before January 1, 2011 by states and political subdivisions that may provide lower cost of financing for public improvements, including taxable governmental bonds referred to as "Build America Bonds" and meeting the requirements of Section 54AA of the Code ("BABs"), of which one type is subsidized through federal tax credits to investors in the bonds ("Tax Credit BABs") and the other type is subsidized by a refundable credit paid to the issuer of the bonds equal to 35% of the amount of interest paid on the bonds ("Direct Payment BABs") and taxable governmental bonds referred to as Recovery Zone Economic Development Bonds and meeting the requirements of Section 1400U-2 of the Code subsidized by a refundable credit paid to the issuer of the bonds equal to 45% of the amount of the interest paid on the bonds ("RZED Bonds"); and

Whereas, the United States Department of the Treasury made an allocation to the City in the amount of \$16,590,000 for RZED Bonds, and this Council by Ordinance No. 1384-09, passed October 5, 2009 designated the entire geographical territory of the City as a Recovery Zone under Section 1400U-1 of the Code; and

Whereas, the Series 2010 Bonds not issued as RZED Bonds may be issued in whole or in part as Tax Credit BABs or Direct Payment BABs or as obligations to which Section 103 of the Code applies, the interest on which is excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds"); and

Whereas, the Director of Finance, as fiscal officer of this City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with

the proceeds of the Series 2010 Bonds is at least five (5) years, as evidenced by the certificate contained in File No. 458-10-A; and

Whereas, the authorization for issuance of the Series 2010 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 Series 2010 Bonds in an aggregate principal amount not to exceed Eight Million Nine Hundred Thousand Dollars (\$8,900,000) for the purpose of providing funds to improve municipal parks and recreation facilities by constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving parks, multi-purpose community buildings, recreation centers and areas, pools, spray pads with interactive water toys, skating rinks, greenhouses, stages, bicycle paths, multi-purpose trails, playgrounds, play fields and courts, concourse areas, stands, tracks, fields, dog parks, public artwork, fountains, fitness stations and related buildings, structures, walkways, pavement and facilities, and providing necessary water systems, bio-filtration areas, drainage, lighting, signage, fixtures, furnishings, landscaping, equipment, safety modifications and site improvements, together with all necessary and incidental appurtenances and the acquisition of any required real estate and interests in real estate and the demolition of any existing buildings, structures, walkways and facilities, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

Section 2. Authority, Security and Source of Payment. The Series 2010 Bonds shall be issued pursuant to the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the Charter of the City, and this Ordinance for the purpose stated in Section 1. The Series 2010 Bonds shall be payable from and secured by the income tax revenues of the City on a basis subordinate to the security given to the General Obligation Bonds of the City ("General Obligation Bonds") under Ordinance No. 1749-80 passed by the Council on October 8, 1980, as amended by Ordinance No. 1112-83 passed by the Council on May 6, 1983, and Ordinance No. 944-96, passed by the Council 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"). The debt service on the Series 2010 Bonds shall be payable from income tax collections remaining after depositing with the escrow agent under the General Bond Ordinance the amount required for the payment of debt service on the City's General Obligation Bonds issued and outstanding, from time to time, under the General Bond Ordinance. The Series 2010 Bonds shall be issued and secured under the terms of the Trust Indenture dated as of April 1, 2008 (the "Indenture") between the City and U.S. Bank National Association, as trustee (the "Trustee"). The Indenture secures five series of Subordinate Lien Income Tax Bonds issued on May 1, 2008 (the "Series 2008 Bonds") and permits the issuance of additional bonds, subject to certain restrictions. The Series 2008 Bonds, the Series 2010 Bonds and any additional bonds issued under the Indenture are collectively referred to in this Ordinance as the "Bonds."

Section 3. Pledge and Covenant to Maintain Income Tax. So long as Bonds are outstanding under the Indenture, the City pledges the municipal income taxes of the City and grants a lien thereon, subordinate to the lien granted in the General Bond Ordinance as security for the General Obligation Bonds of the City issued and outstanding under the General Bond Ordinance, to the full extent required to meet debt charges payable on the Bonds issued and outstanding, from time to time, under the Indenture. The City covenants to appropriate annually sufficient amounts from the income taxes to pay all debt charges on the General Obligation Bonds, the Bonds outstanding under the Indenture, any Parity Obligations and the Unrestricted Income Tax Obligations (each as defined in the Indenture). The City further covenants that so long as any Bonds are outstanding under the Indenture, the City shall not repeal or amend, or suffer the repeal of, any ordinance for the levy or collection of its income taxes in any manner or to such extent that the City would not be able to meet its obligations to the holders of the Bonds.

Section 4. Terms of the Series 2010 Bonds. The Series 2010 Bonds shall be issued in fully registered form. The Series 2010 Bonds may be issued in one or more series or sub-series. The Series 2010 Bonds initially shall be delivered only in book-entry form, shall be registered in the name of the Depository (as defined in the Indenture) or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Indenture and the Second Supplement identified in Section 7. The Series 2010 Bonds shall be designated "Parks and Recreation Facilities Improvement Bonds, Series 2010" and may contain such further designation as provided in the Certificate of Award identified below. The Series 2010 Bonds shall be issued in one lot as fully registered Series

2010 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2010 Bonds shall be numbered as determined by the Director of Finance. The Series 2010 Bonds shall be signed by the officials of the City and in the manner set forth in the Indenture.

The Series 2010 Bonds shall be dated as of May 15, 2010, or such other date specified in the certificate of award providing for the final terms of the Series 2010 Bonds and the sale of the Series 2010 Bonds in accordance with this Ordinance (the "Certificate of Award"). Notwithstanding and as an exception to Ordinance No. 1756-09, as may be amended, the respective principal amounts, if any, of the Series 2010 Bonds to be issued as Tax-Exempt Bonds, Direct Payment BABs, Tax Credit BABs and RZED Bonds shall be determined by the Director of Finance, based on the advice of a financial advisor, in the Certificate of Award, having due regard to the best interest of and financial advantages to the City; provided that the aggregate principal amount of Series 2010 Bonds issued as Tax-Exempt Bonds, Direct Payment BABs, Tax Credit BABs and RZED Bonds shall not exceed the amount stated in Section 1. The Series 2010 Bonds shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed six percent (6%) per year if issued as Tax-Exempt Bonds or eight percent (8%) per year if issued as BABs or RZED Bonds. Interest on the Series 2010 Bonds shall be payable semi-annually on April 1 and October 1, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2010 Bonds shall mature in the years and principal amounts set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, and (ii) the final maturity date of the Series 2010 Bonds shall be no later than December 31, 2031. The Series 2010 Bonds stated to mature in any year may be issued as serial Series 2010 Bonds or as term Series 2010 Bonds payable prior to stated maturity pursuant to sinking fund redemption (the "Term Bonds"). The Director of Finance shall determine in the Certificate of Award whether any of the Series 2010 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"). If any of the Series 2010 Bonds are issued as Term Bonds, the Term Bonds shall be redeemed pursuant to the 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 Trustee 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 credits as provided in the Indenture and the Second Supplement).

The Series 2010 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 whole multiples of \$5,000, on the redemption dates and at the redemption prices specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City (i) for some or all of the Series 2010 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2010 Bonds calculated in a manner to make the bondholder whole for the loss of the investment or calculated as a percentage in excess of 100% of the principal amount redeemed.

If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond which is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised as provided in the Second Supplement.

If and to the extent provided in the Certificate of Award, the Series 2010 Bonds may be secured by a Debt Service Reserve Fund to be held by the Trustee under the Indenture. The principal amount of the Series 2010 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Bonds, subject to compliance with applicable federal tax laws.

Section 5. Sale of Series 2010 Bonds. The Series 2010 Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Series 2010 Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Series 2010 Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Series 2010 Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 12 and the Original Purchaser's offer to purchase the Series 2010 Bonds, including: the

principal amount of the Series 2010 Bonds, the 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), terms and conditions under which any Series 2010 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2010 Bonds (if different from those set forth in Section 3) and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Series 2010 Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Series 2010 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 Series 2010 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 Series 2010 Bonds. The Director of Finance is authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2010 Bonds and the Original Purchaser agrees to buy the Series 2010 Bonds on terms consistent with this Ordinance and the Indenture, that are not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Series 2010 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Second Supplement, are in the best interest of the City and in compliance with all legal requirements.

Section 6. Application of Proceeds. The proceeds from the sale of the Series 2010 Bonds shall be applied as follows:

(a) to the payment of any providers of any Credit Support Instru-

ments, the fees and expenses required to be paid by the City to obtain the Credit Support Instrument;

(b) to the Trustee, for deposit in the Interest Payment Account in the Debt Service Fund, the amount, if any, received by the City upon delivery of the Series 2010 Bonds as accrued interest from their dated date to the date of their delivery to the Original Purchaser;

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

(d) to the Trustee for deposit in the Project Fund, the balance of the proceeds (including any original issue premium received from the sale of the Series 2010 Bonds).

Section 7. Supplemental Indenture. The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Second Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2010 Bonds, redemption of Series 2010 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2010 Bonds, defeasance of the Series 2010 Bonds, and other terms consistent with this Ordinance and the Certificate of Award and approved by the Director of Finance as not substantially adverse to the City. The Second Supplement shall be approved as to form and correctness by the Director of Law. The determination by the Director of Finance that the provisions of the Second Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Second Supplement. As appropriate under the Charter, the Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments in addition to the Indenture and Second Supplement as may be necessary or appropriate to issue and sell the Series 2010 Bonds and to consummate the transactions authorized by this Ordinance.

Section 8. Bond Anticipation Notes. For the purpose of raising money in anticipation of the issuance of the Series 2010 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Eight Million Nine Hundred Thousand Dollars (\$8,900,000) (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"). The Notes, if sold as fixed rate obligations, shall bear interest at such rate, not exceeding three percent (3%) per year, and shall be payable on the date or dates, as shall be determined 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; shall be subject to redemption by the City at any time prior to maturity without penalty, unless the Director of Finance, based on the advice of a financial advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, that the Notes not be redeemable prior to maturity or that a premium be paid on their prior redemption; shall be designated "Parks and Recreation Facilities Improvement Bond Anticipation Notes" or as otherwise provided in the Note Certificate of Award; 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). The provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Notes and pursuant to that authority and this Ordinance, the Director of Finance may determine in the Certificate of Award, based on the written advice of a financial advisor, that the City's best interests will be served by causing all or a portion of the Notes to be obligations bearing interest at variable rates. If the Director of Finance so determines, then the Director of Finance shall specify in the Certificate of Award the method and procedure by which the variable rate of interest to be borne by the variable rate Notes shall be determined; provided that the variable rate Notes shall not bear interest at a rate in excess of twenty-five percent (25%) per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Notes, and from time to time thereafter so long as the variable rate Notes are outstanding, with providers of Credit Support Instruments (as defined in Section 11) and others as may be determined by the Director of Finance, based on the written advice of a financial advisor, to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender, providing for liquidity or credit support for the payment of the variable rate Notes upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument. The Trustee shall be the authenticating agent, registrar, transfer agent and paying agent for the Notes. The Notes shall be signed by the officials of the City and in the manner set forth in the Indenture. The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold at not less than par and accrued interest to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the prin-

cipal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award"). The proceeds of such sale shall be paid into the proper fund or funds set forth in the Note Certificate of Award and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

Section 9. Official Statement; Continuing Disclosure. If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Series 2010 Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Series 2010 Bonds, as the case may be, and any necessary supplements and to authorize the use and distribution of each Official Statement and any supplements. The Director of Finance is authorized to sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in her judgment, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 the "SEC Rule." The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Notes or the Series 2010 Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Series 2010 Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Series 2010 Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized to

establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

Section 10. Federal Tax Considerations. (a) Tax-Exempt Bonds. The representations and covenants in this subsection (a) apply only to Series 2010 Bonds or Notes of a series issued and sold as Tax-Exempt Bonds.

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (i) the Tax-Exempt Bonds will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (B) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (ii) the interest on the Tax-Exempt Bonds will not be an item of tax preference under Section 57 of the Code. The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) 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.

(b) BABs and RZED Bonds. The representations and covenants in this subsection (b) apply only to Series 2010 Bonds or Notes of a series issued and sold as BABs or RZED Bonds.

The City covenants that it will use, and will restrict the use and investment of, the proceeds of such Series 2010 Bonds or Notes in such manner and to such extent as may be necessary so that such Series 2010 Bonds or Notes will qualify as Tax Credit BABs or Direct Payment BABs or RZED Bonds, as applicable, under the applicable provisions of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the Bonds to qualify and remain qualified as Tax Credit BABs or Direct Payment BABs or RZED Bonds, as applicable, (ii) it will not take or authorize to be taken any actions that would adversely affect that tax status, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of such Series 2010 Bonds or Notes to the governmental purpose of the borrowing, (B) restrict the yield on investment

property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) 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 tax status under the Code.

(c) Further Actions. The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2010 Bonds and any Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2010 Bonds and any Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, the election to issue all or any portion of the Series 2010 Bonds or any Notes as Tax Credit BABs or Direct Payment BABs or to issue all or any portion of the Series 2010 Bonds as RZED Bonds as applicable, and any of the elections provided for in Section 54AA, 149(f)(4)(C), or 1400U-2 of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2010 Bonds and any Notes or interest thereon or an entitlement to tax credits or direct cash payments relating thereto, or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing rebate amounts 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, which action shall be in writing and signed by the officer, (ii) 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 intended tax status of the Series 2010 Bonds and any Notes or the City's entitlement to receive one or more direct payments, and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2010 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2010 Bonds and any Notes, 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 direct payments or tax credits relating to the Series 2010 Bonds and any Notes and the tax status of the Series 2010 Bonds and any Notes.

Section 11. Credit Facilities and Ratings. If the Director of Finance determines it to be in the best interests of the City, based on the written advice of a financial advisor, the Director of Finance may obtain an insurance policy, letter of credit, standby bond purchase agreement or other credit enhancement instrument as further security for the pay-

ment when due of the principal of and interest on all or any portion of the Series 2010 Bonds or any Notes (a "Credit Support Instrument"). The Director of Finance may request a rating on the Series 2010 Bonds or Notes from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a Credit Support Instrument and/or a rating or ratings on the Series 2010 Bonds or Notes. The Director of Finance may enter into one or more agreements for Credit Support Instruments containing terms not materially inconsistent with this Ordinance or the Indenture. The expenditure of the amounts necessary to secure Credit Support Instruments 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 Series 2010 Bonds or Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 12. Financial Advisor. The Director of Finance may obtain the services of one or more financial advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Ordinance to be determined by the Director of Finance. The Director of Finance may rely on the written advice of any financial advisor so retained. Any financial advisor employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the Original Purchasers and any other party interested in the transaction.

Section 13. Open Meeting Determination. It is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and any of its committees and that all deliberations of this Council that resulted in these formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 14. 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 Series 2010 Bonds and the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Series 2010 Bonds or the Notes. It is further found and determined, and is 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 15. Delivery to County Auditor. The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Series 2010 Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefore.

Section 16. Severability. Each section and each part of each section of this Ordinance is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is 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 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 17. 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. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Series 2010 Bonds or the Notes authorized herein.

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 Series 2010 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.

Section 18. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Passed April 26, 2010.
Effective April 29, 2010.

**Ord. No. 459-10.
By Council Member Sweeney (by departmental request).**

An emergency ordinance authorizing the issuance and sale of Bonds in the maximum principal amount of \$8,700,000 for the purpose of providing funds for bridges and roadway improvements and authorizing related matters.

Whereas, this Council desires to issue bonds in an aggregate principal amount not to exceed Eight Million Seven Hundred Thousand Dollars (\$8,700,000) (the "Series 2010 Bonds") to finance the costs of certain permanent improvements described in Section 1; and

Whereas, the Series 2010 Bonds shall be payable from and secured by income tax revenues of the City remaining after deposits required under the General Bond Ordinance (as defined in Section 2) are made to the escrow agent for the City's general obligation bonds; and

Whereas, the American Recovery and Reinvestment Act of 2009 amended the Internal Revenue Code of 1986, as amended (the "Code"), to authorize new types of obligations that may be issued on or before January 1, 2011 by states and political subdivisions that may provide lower cost of financing for public improvements, including taxable governmental bonds referred to as "Build America Bonds" and meeting the requirements of Section 54AA of the Code ("BABs"), of which one type is subsidized through federal tax credits to investors in the bonds ("Tax Credit BABs") and the other type is subsidized by a refundable credit paid to the issuer of the bonds equal to 35% of the amount of interest paid on the bonds ("Direct Payment BABs") and taxable governmental bonds referred to as Recovery Zone Economic Development Bonds and meeting the requirements of Section 1400U-2 of the Code subsidized by a refundable credit paid to the issuer of the bonds equal to 45% of the amount of the interest paid on the bonds ("RZED Bonds"); and

Whereas, the United States Department of the Treasury made an allocation to the City in the amount of \$16,590,000 for RZED Bonds, and this Council by Ordinance No. 1384-09 passed October 5, 2009 designated the entire geographical territory of the City as a Recovery Zone under Section 1400U-1 of the Code; and

Whereas, the Series 2010 Bonds not issued as RZED Bonds may be issued in whole or in part as Tax Credit BABs or Direct Payment BABs or as obligations to which Section 103 of the Code applies, the interest on which is excluded from gross income for federal income tax purposes ("Tax-Exempt Bonds"); and

Whereas, the Director of Finance, as fiscal officer of this City, has certified to this Council that the estimated life or usefulness of the improvements to be financed with the proceeds of the Series 2010 Bonds is at least five (5) years, as evidenced by the certificate contained in File No. 459-10-A; and

Whereas, the authorization for issuance of the Series 2010 Bonds is necessary to provide funds to pay the costs of certain permanent im-

provements 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 Series 2010 Bonds in an aggregate principal amount not to exceed Eight Million Seven Hundred Thousand Dollars (\$8,700,000) for the purpose of providing funds to improve the municipal street system and related facilities, including streets, expressways, roadways, driveways, retaining walls, underground vaults, sidewalks and pedestrian walkways, by acquiring, constructing, reconstructing, opening, extending, widening, grading, draining, paving, resurfacing, lighting and curbing, removing or reconstructing underground vaults to preserve the public right of way; installing gutters, sidewalks and related pedestrian improvements; constructing and improving culverts; constructing sanitary sewers and water lines; resetting and constructing catch basins and other storm drainage facilities; constructing, reconstructing, replacing, renovating and rehabilitating bridges; acquiring any real estate and interests in real estate, including easements, necessary for such purpose; and installing signs, signals, markings and other devices for traffic control purposes, together with all necessary and incidental appurtenances, and to pay any capitalized interest and all expenses incurred in connection with the issuance of the securities, including all financing costs within the meaning of Section 133.01(K) of the Revised Code and such other costs of the foregoing permanent improvements that may be financed with the proceeds of securities as permitted by Section 133.15(B) of the Ohio Revised Code and as otherwise permitted by law.

Section 2. Authority, Security and Source of Payment. The Series 2010 Bonds shall be issued pursuant to the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the Charter of the City, and this Ordinance for the purpose stated in Section 1. The Series 2010 Bonds shall be payable from and secured by the income tax revenues of the City on a basis subordinate to the security given to the General Obligation Bonds of the City ("General Obligation Bonds") under Ordinance No. 1749-80 passed by the Council on October 8, 1980, as amended by Ordinance No. 1112-83 passed by the Council on May 6, 1983, and Ordinance No. 944-96, passed by the Council 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"). The debt service on the Series 2010 Bonds shall be payable from income tax collections remaining after depositing with the escrow agent under the General Bond Ordinance the amount required for the

payment of debt service on the City's General Obligation Bonds issued and outstanding, from time to time, under the General Bond Ordinance. The Series 2010 Bonds shall be issued and secured under the terms of the Trust Indenture dated as of April 1, 2008 (the "Indenture") between the City and U.S. Bank National Association, as trustee (the "Trustee"). The Indenture secures five series of Subordinate Lien Income Tax Bonds issued on May 1, 2008 (the "Series 2008 Bonds") and permits the issuance of additional bonds, subject to certain restrictions. The Series 2008 Bonds, the Series 2010 Bonds and any additional bonds issued under the Indenture are collectively referred to in this Ordinance as the "Bonds."

Section 3. Pledge and Covenant to Maintain Income Tax. So long as Bonds are outstanding under the Indenture, the City pledges the municipal income taxes of the City and grants a lien thereon, subordinate to the lien granted in the General Bond Ordinance as security for the General Obligation Bonds of the City issued and outstanding under the General Bond Ordinance, to the full extent required to meet debt charges payable on the Bonds issued and outstanding, from time to time, under the Indenture. The City covenants to appropriate annually sufficient amounts from the income taxes to pay all debt charges on the General Obligation Bonds, the Bonds outstanding under the Indenture, any Parity Obligations and the Unrestricted Income Tax Obligations (each as defined in the Indenture). The City further covenants that so long as any Bonds are outstanding under the Indenture, the City shall not repeal or amend, or suffer the repeal of, any ordinance for the levy or collection of its income taxes in any manner or to such extent that the City would not be able to meet its obligations to the holders of the Bonds.

Section 4. Terms of the Series 2010 Bonds. The Series 2010 Bonds shall be issued in fully registered form. The Series 2010 Bonds may be issued in one or more series or subseries. The Series 2010 Bonds initially shall be delivered only in book-entry form, shall be registered in the name of the Depository (as defined in the Indenture) or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Indenture and the Second Supplement identified in Section 7. The Series 2010 Bonds shall be designated "Bridges and Roadways Improvement Bonds, Series 2010" and may contain such further designation as provided in the Certificate of Award identified below. The Series 2010 Bonds shall be issued in one lot as fully registered Series 2010 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2010 Bonds shall be numbered as determined by the Director of Finance. The Series 2010 Bonds shall be signed by the officials of the City and in the manner set forth in the Indenture.

The Series 2010 Bonds shall be dated as of May 15, 2010, or such other date specified in the certificate of award providing for the final terms of the Series 2010 Bonds and the sale of the Series 2010 Bonds in accordance with this Ordinance (the "Certificate of Award"). Notwithstanding and as an exception to Ordinance No. 1756-09, as may be amended, the respective principal amounts, if any, of the Series 2010 Bonds to be issued as Tax-Exempt Bonds, Direct Payment BABS, Tax Credit BABS and RZED Bonds shall be determined by the Director of Finance, based on the advice of a financial advisor, in the Certificate of Award, having due regard to the best interest of and financial advantages to the City; provided that the aggregate principal amount of Series 2010 Bonds issued as Tax-Exempt Bonds, Direct Payment BABS, Tax Credit BABS and RZED Bonds shall not exceed the amount stated in Section 1. The Series 2010 Bonds shall bear interest from their date until the principal amount is paid at the rate or rates per year specified in the Certificate of Award, provided that the weighted average of such rates (taking into account the principal amount and maturity of each Bond to which a rate applies) shall not exceed six percent (6%) per year if issued as Tax-Exempt Bonds or eight percent (8%) per year if issued as BABS or RZED Bonds. Interest on the Series 2010 Bonds shall be payable semi-annually on April 1 and October 1, or such other dates specified in the Certificate of Award (the "Interest Payment Dates").

The Series 2010 Bonds shall mature in the years and principal amounts set forth in the Certificate of Award, provided that (i) each principal payment shall occur on an Interest Payment Date, and (ii) the final maturity date of the Series 2010 Bonds shall be no later than December 31, 2027. The Series 2010 Bonds stated to mature in any year may be issued as serial Series 2010 Bonds or as term Series 2010 Bonds payable prior to stated maturity pursuant to sinking fund redemption (the "Term Bonds"). The Director of Finance shall determine in the Certificate of Award whether any of the Series 2010 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"). If any of the Series 2010 Bonds are issued as Term Series 2010 Bonds, the Term Bonds shall be redeemed pursuant to the 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 Trustee 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 in the Indenture and the Second Supplement).

The Series 2010 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 whole multiples of \$5,000, on the redemption dates and at the redemption prices specified in the Certificate of Award, plus, in each case, accrued interest to the redemption date. Based on the written advice of a financial advisor, the Director of Finance may determine in the Certificate of Award that it is in the best interests of the City (i) for some or all of the Series 2010 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2010 Bonds calculated in a manner to make the bondholder whole for the loss of the investment or calculated as a percentage in excess of 100% of the principal amount redeemed.

If and to the extent provided in the Certificate of Award, the City may have the option to purchase any Bond which is redeemable by optional redemption at a purchase price not less than the redemption price that would be payable if that Bond were called for optional redemption on the date of the proposed purchase. That election shall be exercised as provided in the Second Supplement.

If and to the extent provided in the Certificate of Award, the Series 2010 Bonds may be secured by a Debt Service Reserve Fund to be held by the Trustee under the Indenture. The principal amount of the Series 2010 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Bonds, subject to compliance with applicable federal tax laws.

Section 5. Sale of Series 2010 Bonds. The Series 2010 Bonds shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold to one or more firms that have proposed to underwrite the Series 2010 Bonds and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (collectively, the "Original Purchaser").

The Series 2010 Bonds shall be awarded to the Original Purchaser in the Certificate of Award which shall specify the final terms of the Series 2010 Bonds in accordance with law, the provisions of this Ordinance, the written advice of a financial advisor retained under authority of Section 12 and the Original Purchaser's offer to purchase the Series 2010 Bonds, including: the principal amount of the Series 2010 Bonds, the 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 install-

ments are payable (at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements), terms and conditions under which any Series 2010 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2010 Bonds (if different from those set forth in Section 3) and any other matters required in this Ordinance to be set forth in that Certificate. As appropriate under the Charter, the Mayor, Director of Finance, Director of Law, Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to take such actions as are necessary, appropriate and in the best interest of the City to establish the terms and requirements for delivery of the Series 2010 Bonds and to make such arrangements as are necessary with the Original Purchaser in order to establish the date, location, procedures, and conditions for the delivery of the Series 2010 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 Series 2010 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 Series 2010 Bonds. The Director of Finance is authorized to sign and deliver on behalf of the City a bond purchase agreement between the City and the Original Purchaser (the "Bond Purchase Agreement"), approved as to form and correctness by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2010 Bonds and the Original Purchaser agrees to buy the Series 2010 Bonds on terms consistent with this Ordinance and the Indenture, that are not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments to the Bond Purchase Agreement by the Director of Finance. It is determined that the terms of the Series 2010 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Second Supplement, are in the best interest of the City and in compliance with all legal requirements.

Section 6. Application of Proceeds. The proceeds from the sale of the Series 2010 Bonds shall be applied as follows:

(a) to the payment of any providers of any Credit Support Instruments, the fees and expenses required to be paid by the City to obtain the Credit Support Instrument;

(b) to the Trustee, for deposit in the Interest Payment Account in the Debt Service Fund, the amount, if any, received by the City upon deliv-

ery of the Series 2010 Bonds as accrued interest from their dated date to the date of their delivery to the Original Purchaser;

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

(d) to the Trustee for deposit in the Project Fund, the balance of the proceeds (including any original issue premium received from the sale of the Series 2010 Bonds).

Section 7. Supplemental Indenture. The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental indenture (the "Second Supplement"), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2010 Bonds, redemption of Series 2010 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2010 Bonds, defeasance of the Series 2010 Bonds, and other terms consistent with this Ordinance and the Certificate of Award and approved by the Director of Finance as not substantially adverse to the City. The Second Supplement shall be approved as to form and correctness by the Director of Law. The determination by the Director of Finance that the provisions of the Second Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director's signing of the Second Supplement. As appropriate under the Charter, the Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other appropriate officers of the City are, and each of them is, authorized to sign, acknowledge and deliver, in the name and on behalf of the City, such documents, certifications and instruments in addition to the Indenture and Second Supplement as may be necessary or appropriate to issue and sell the Series 2010 Bonds and to consummate the transactions authorized by this Ordinance.

Section 8. Bond Anticipation Notes. For the purpose of raising money in anticipation of the issuance of the Series 2010 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed Eight Million Seven Hundred Thousand Dollars (\$8,700,000) (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"). The Notes, if sold as fixed rate obligations, shall bear interest at such rate, not exceeding three percent (3%) per year, and shall be payable on the date or dates, as shall be determined 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; shall be subject to redemption by the City at any time prior to maturity without penalty, unless the Director of Finance, based on the advice of a financial

advisor, determines that it is in the best interest of the City in order to enhance the marketability of the Notes, that the Notes not be redeemable prior to maturity or that a premium be paid on their prior redemption; shall be designated "Bridges and Roadways Improvement Bond Anticipation Notes" or as otherwise provided in the Note Certificate of Award; 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). The provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Notes and pursuant to that authority and this Ordinance, the Director of Finance may determine in the Certificate of Award, based on the written advice of a financial advisor, that the City's best interests will be served by causing all or a portion of the Notes to be obligations bearing interest at variable rates. If the Director of Finance so determines, then the Director of Finance shall specify in the Certificate of Award the method and procedure by which the variable rate of interest to be borne by the variable rate Notes shall be determined; provided that the variable rate Notes shall not bear interest at a rate in excess of twenty-five percent (25%) per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Notes, and from time to time thereafter so long as the variable rate Notes are outstanding, with providers of Credit Support Instruments (as defined in Section 11) and others as may be determined by the Director of Finance, based on the written advice of a financial advisor, to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender, providing for liquidity or credit support for the payment of the variable rate Notes upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument. The Trustee shall be the authenticating agent, registrar, transfer agent and paying agent for the Notes. The Notes shall be signed by the officials of the City and in the manner set forth in the Indenture. The Notes shall first be offered for purchase to the Trustees of the Sinking Fund and, if not purchased by them, shall be offered to the Treasury Investment Account for purchase and, if not purchased for that Account, shall be sold at not less than par and accrued interest to one or more firms that have proposed to underwrite the Notes and have been selected by the Director of Finance based on an evaluation of the qualifications of those firms (the "Note Purchaser") in the principal amount set forth in a certificate of award to be executed by the Director of Finance (the "Note Certificate of Award"). The proceeds of such sale shall be paid into the proper fund or funds set forth in

the Note Certificate of Award and used for the purpose for which the Notes are being issued under the provisions of this Ordinance.

Section 9. Official Statement; Continuing Disclosure. If, in the judgment of the Director of Finance, a disclosure document (each, an "Official Statement") is appropriate or necessary in connection with the sale of the Notes or the Series 2010 Bonds, the Director of Finance is authorized to prepare or cause to be prepared on behalf of the City an Official Statement with respect to the Notes or the Series 2010 Bonds, as the case may be, and any necessary supplements and to authorize the use and distribution of each Official Statement and any supplements. The Director of Finance is authorized to sign on behalf of the City and in her official capacity each Official Statement and any supplements approved by her. The Director of Finance is authorized to sign and deliver on behalf of the City and in her official capacity such certificates in connection with the accuracy of each Official Statement and any supplements as may, in her judgment, be necessary or appropriate. The Director of Finance is also authorized to determine and certify on behalf of the City that such disclosure document is "deemed final" by the City within the meaning of Securities and Exchange Commission Rule 15c2-12 the "SEC Rule.") The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final Official Statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Notes or the Series 2010 Bonds, the City agrees, in accordance with, and as the only obligated person with respect to the Notes and the Series 2010 Bonds under the SEC Rule, to provide or cause to be provided such financial information and operating data and notices, in such manner as may be required for purposes of the SEC Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance is authorized and directed to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Notes or the Series 2010 Bonds, as the case may be, in accordance with the SEC Rule. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it. The Director of Finance is further authorized to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices.

Section 10. Federal Tax Considerations. (a) Tax-Exempt Bonds. The representations and covenants in this subsection (a) apply only to Series 2010 Bonds or Notes of a Series issued and sold as Tax-Exempt Bonds.

The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (i) the Tax-Exempt Bonds will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (B) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (ii) the interest on the Tax-Exempt Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports and (E) 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.

(b) BABs and RZED Bonds. The representations and covenants in this subsection (b) apply only to Series 2010 Bonds or Notes of a Series issued and sold as BABs or RZED Bonds.

The City covenants that it will use, and will restrict the use and investment of, the proceeds of such Series 2010 Bonds or Notes in such manner and to such extent as may be necessary so that such Series 2010 Bonds or Notes will qualify as Tax Credit BABs, Direct Payment BABs or RZED Bonds, as applicable, under the applicable provisions of the Code.

The City further covenants that (i) it will take or cause to be taken such actions that may be required of it for the Bonds to qualify and remain qualified as Tax Credit BABs or Direct Payment BABs or RZED Bonds, as applicable, (ii) it will not take or authorize to be taken any actions that would adversely affect that tax status, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of such Series 2010 Bonds or Notes to the governmental purpose of the borrowing, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and

reports and (E) 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 tax status under the Code.

(c) Further Actions. The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2010 Bonds and any Notes is hereby authorized (i) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2010 Bonds and any Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, the election to issue all or any portion of the Series 2010 Bonds or any Notes as Tax Credit BABs or Direct Payment BABs or to issue all or any portion of the Series 2010 Bonds as RZED Bonds, as applicable, and any of the elections provided for in Section 54AA, 148(f)(4)(C), or 1400U-2 of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2010 Bonds and any Notes or interest thereon or an entitlement to tax credits or direct cash payments relating thereto, or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing rebate amounts 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, which action shall be in writing and signed by the officer, (ii) 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 intended tax status of the Series 2010 Bonds and any Notes or the City's entitlement to receive one or more direct payments, and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2010 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2010 Bonds and any Notes, 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 direct payments or tax credits relating to the Series 2010 Bonds and any Notes and the tax status of the Series 2010 Bonds and any Notes.

Section 11. Credit Facilities and Ratings. If the Director of Finance determines it to be in the best interests of the City, based on the written advice of a financial advisor, the Director of Finance may obtain an insurance policy, letter of credit, standby bond purchase agreement or other credit enhancement instrument as further security for the payment when due of the principal of and interest on all or

any portion of the Series 2010 Bonds or any Notes (a "Credit Support Instrument"). The Director of Finance may request a rating on the Series 2010 Bonds or Notes from one or more nationally recognized rating organizations, and do any and all things and take any and all actions required to secure a Credit Support Instrument and/or a rating or ratings on the Series 2010 Bonds or Notes. The Director of Finance may enter into one or more agreements for Credit Support Instruments containing terms not materially inconsistent with this Ordinance or the Indenture. The expenditure of the amounts necessary to secure Credit Support Instruments 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 Series 2010 Bonds or Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 12. Financial Advisor. The Director of Finance may obtain the services of one or more financial advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Ordinance to be determined by the Director of Finance. The Director of Finance may rely on the written advice of any financial advisor so retained. Any financial advisor employed under the authority of this Ordinance shall be disinterested in the transaction and be independent of the Original Purchasers and any other party interested in the transaction.

Section 13. Open Meeting Determination. It is found and determined that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and any of its committees and that all deliberations of this Council that resulted in these formal actions were held, in meetings open to the public in compliance with all legal requirements, including, without limitation, Section 121.22 of the Revised Code.

Section 14. 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 Series 2010 Bonds and the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Series 2010 Bonds or the Notes. It is further found and determined, and is 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 15. Delivery to County Auditor. The Director of Finance is directed to forward a certified copy of this Ordinance and of the Certificate of Award for the Series 2010 Bonds and any Note Certificate of Award to the County Auditor of Cuyahoga County and to secure a receipt therefore.

Section 16. Severability. Each section and each part of each section of this Ordinance is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is 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 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 17. 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. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Series 2010 Bonds or the Notes authorized herein.

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 Series 2010 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.

Section 18. Emergency Measure. This Ordinance is declared to be an emergency measure for the immediate preservation of the public peace, property, health and safety of the City by providing funds to pay the costs of certain permanent improvements which are urgently needed for the benefit of the City and for the usual daily operation of a municipal department, and, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest date allowed by law.

Passed April 26, 2010.

Effective April 29, 2010.

Ord. No. 514-10.

By Council Member Kelley.

An emergency ordinance authorizing the Director of Finance to employ one or more professional consultants, computer software developers, or vendors to develop a wireless broadband network in Ward 13 as a pilot program and to acquire licenses and other professional services necessary to implement the system, including project management, installing, designing, training, testing, programming, integrating, managing connections, maintenance, technical support, acquiring network equipment and incidental supplies, and other related issues, for the Division of Information Technology and Services, Department of Finance, for a period of three years, with two one year options to renew.

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

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

Section 1. That the Director of Finance is authorized to employ by contract or contracts one or more consultants, computer software developers, or vendors or one or more firms of consultants, computer software developers, or vendors for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland to develop a wireless broadband network in Ward 13 as a pilot program and to acquire one or more software licenses and other professional services necessary to implement the system, including project management, installing, designing, training, testing, programming, integrating, managing connections, maintenance, technical support, acquiring Network equipment and incidental supplies, and other related issues, for a period of three years, with two one-year options to renew.

The selection of the consultants, computer software developers, or vendors for the services shall be made by the Board of Control on the nomination of the Director of Finance from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Finance Director 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, and approved and certified by the Director of Finance.

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

Section 3. That the cost of the contract or contracts authorized by this ordinance shall be paid from the Ward 13 NCF and NEF accounts Fund No. 10 SF 177 and Fund No. 10 SF 166, and Fund Nos. 11-006, 20-379, 20-393, 20-505, and 20-526.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force

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

Passed April 26, 2010.
Effective April 27, 2010.

Ord. No. 522-10.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Cleveland Municipal Court, to apply for and accept a grant from the Cuyahoga County Corrections Planning Board for the Domestic Intervention, Education & Training (D.I.E.T.) 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 Finance, on behalf of the Cleveland Municipal Court, is authorized to apply for and accept a grant in the amount of \$216,060.00, from the Cuyahoga County Corrections Planning Board to conduct the Domestic Intervention, Education & Training (D.I.E.T.) Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the program description for the grant contained in the file described below.

Section 2. That the program description for the grant, File No. 522-10-A made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

Section 3. That the Chief Probation Officer is authorized to charge and accept fees from participants of this program and to deposit those fees into a revolving fund which will be used to provide additional materials equipment, supplies, and services under the program described in the file, and the funds are appropriated for that purpose.

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

Passed April 26, 2010.
Effective April 29, 2010.

Ord. No. 561-10.

By Council Member Mitchell.

An emergency ordinance authorizing the issuance of a Temporary Sidewalk Occupancy Permit to Albert Rollins, Jr. to engage in peddling at 10505 Union Avenue.

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

Whereas, this Council has considered the request of Rollins, Jr. to engage in peddling outside of the Central Business District, and has determined that it is in the public interest to allow Albert Rollins, Jr. to peddle in Ward 6; and

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

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

Section 1. That this Council consents, as required by, Section 675.07 of the Codified Ordinances to allow Albert Rollins, Jr. to engage in mobile peddling in the public rights of way of Ward 6 at 10505 Union Avenue.

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

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

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

Passed April 26, 2010.
Effective April 29, 2010.

Ord. No. 562-10.

By Council Member Sweeney.

An emergency ordinance authorizing the Clerk of Council to enter into an agreement with Saint Martin De Porres High School Work Study Program to participate as a sponsor of students for work/study positions with Cleveland City Council.

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

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

Section 1. That the Clerk of Council is authorized to enter into an agreement with Saint Martin De Porres High School Work Study Program to participate as a sponsor of students for work/study positions with Cleveland City Council. This agreement shall be entered into as of August 1, 2010 and shall terminate July 31, 2011. Cleveland City Council shall provide sponsorship for up to four students at a time during the term. The agreement shall be certified for \$28,500.00 and shall be certified from fund number 01, subfund 001, department 0101, object 6320.

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

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

Passed April 26, 2010.
Effective April 29, 2010.

Ord. No. 563-10.

By Council Member Sweeney.

An emergency ordinance authorizing the Clerk of Council to enter into one or more summer internship agreements with various individuals to provide assistance to the Office of the Clerk and the members of Cleveland City Council in any and all matters related to official Council business.

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

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

Section 1. That the Clerk of Council is authorized to enter into one or more summer internship agreements with various individuals to provide assistance to the Office of the Clerk and the members of Cleveland City Council in any and all matters related to official Council business, as may be directed by the Clerk or her designees. The agreements shall be for a period not to exceed 15 weeks. The individuals shall be paid on an hourly basis in an amount not to exceed 10.00 per hour and shall be certified from fund number 01, subfund 001, department 0101, object 6320.

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

Passed April 26, 2010.
Effective April 29, 2010.

Ord. No. 564-10.

By Council Member Brady.

An emergency ordinance authorizing the Director of Community Development to enter into a grant agreement with Westown Community Development Corporation for the Fifty-Fifty Home Repair Rebate Program to provide home repair assistance to Cleveland residents through the use of Ward 17 Neighborhood Equity Funds.

Whereas, the Housing Advisory Board has reviewed and approved the Home Repair Program that will provide home repair assistance to City of Cleveland residents, and

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

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

Section 1. That the Director of Community Development is authorized to enter into an agreement with Westown Community Development Corporation who will be acting as an agent for the City of Cleveland for the implementation of the Fifty-Fifty Home Repair Rebate Program for the public purpose of providing home repair assistance to the citizens of Cleveland through the use of Ward 17 Neighborhood Equity Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$80,000 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 26, 2010.
Effective April 29, 2010.

Ord. No. 565-10.

By Council Member Conwell.

An emergency ordinance amending the Title and Section 1 of Ordinance No. 1565-09 passed October 26, 2009 as it pertains to the Glenville Titans Youth Football and Cheerleading Program through the use of Ward 9 Neighborhood Capital 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 Title and Section 1 of Ordinance No. 1565-09 passed October 26, 2009 are hereby amended to read as follows:

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to enter into an agree-

ment with IN THE HOOD FOUNDATION, INC. for the Glenville Titans Youth Football and Cheerleading Program through the use of Ward 9 Neighborhood Capital Funds.

Section 1. That the Director of Parks, Recreation and Properties is authorized to enter into an agreement with IN THE HOOD FOUNDATION, INC. for the Glenville Titans Youth Football and Cheerleading Program for the public purpose of providing organized football and cheerleading activities for youth residing in the city of Cleveland through the use of Ward 9 Neighborhood Capital Funds.

Section 2. That the Title and Section 1 of Ordinance No. 1565-09 passed October 26, 2009 are hereby repealed.

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

Passed April 26, 2010.
Effective April 29, 2010.

Ord. No. 567-10.

**By Council Member Sweeney.
An emergency ordinance authorizing the Clerk of Council to enter into an amendment to agreement with NetX Internet LLC, PS 201000000009, increase the funds to purchase and install a router for Cleveland City Council.**

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

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

Section 1. That the Clerk of Council is hereby authorized to enter into an amendment to agreement with NetX Internet LLC, PS 201000000009, to provide for payment for purchase and installation of a router in the amount of \$1,350.00 which shall be paid from fund number 632000-01-010100 and/or Fund 11-006.

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

Passed April 26, 2010.
Effective April 29, 2010.

COUNCIL COMMITTEE MEETINGS

**Monday, May 3, 2010
9:30 a.m.**

Public Parks, Property and Recreation Committee: Present: K. Johnson, Chair; Brancatelli, Cimperman, Dow, Polensek, Reed. *Authorized Absence:* Conwell, Vice Chair. *Pro tempore:* Kelley, Cleveland.

2:00 p.m.

Finance Committee: Present: Sweeney, Chair; Kelley, Vice Chair; Brady, Brancatelli, Cleveland, Keane, Miller, Polensek, Pruitt, Westbrook. *Authorized Absence:* Mitchell. *Pro tempore:* Dow, Reed, Zone.

**Tuesday, May 4, 2010
9:30 a.m.**

Community and Economic Development Committee: Present: Brancatelli, Chair; Dow, Vice Chair; Cummins, J. Johnson, Miller, Pruitt, Westbrook. *Authorized Absence:* Cimperman, Zone.

**Wednesday, May 5, 2010
10:00 a.m.**

Public Safety Committee: Present: Conwell, Chair; Polensek, Vice Chair; Brady, Cleveland, Dow, Mitchell, Zone. *Authorized Absence:* Cummins, Miller.

1:30 p.m.

Public Utilities Committee: Present: Kelley, Chair; Brady, Vice Chair; Cummins, Dow, Polensek, Pruitt, Westbrook. *Authorized Absence:* Conwell, Miller. *Pro tempore:* Keane.

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O—Ordinance; R—Resolution; F—File

Bold figures—Final Publication; D—Defeated; R—Reprint; T—Tabled; V—Vetoed;

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