

**FISCAL OFFICER'S CERTIFICATE
ORDINANCE NO. 47-14**

City of Avon, Ohio
April __, 2014

TO THE COUNCIL OF THE CITY OF AVON, OHIO

The undersigned, Director of Finance of the City of Avon, Ohio (the "City"), as fiscal officer of the City as defined by Revised Code Section 133.01, hereby certifies as follows in connection with your proposed issue of not to exceed \$5,500,000 of bonds to pay the City's portion of the costs of the construction of an interchange at Nagel Road on Interstate 90 and paying financing costs associated therewith, and all necessary appurtenances thereto (the "Improvement"):

1. That the estimated life or period of usefulness of the Improvement is hereby certified to be at least five (5) years.

2. That the maximum maturity of the bonds, calculated in accordance with the provisions of Section 133.20 of the Revised Code of Ohio is twenty-five (25) years, since by my estimate if and to the extent a portion of the proceeds of such bonds may be determined to be allocated to a class or classes of improvements having a maximum maturity of less than twenty-five years but in excess of five years, then the maximum maturity of such bonds would still be at least twenty-five years by reason of a sufficient portion of the proceeds of such bonds allocated to a class or classes having a maximum maturity in excess of twenty-five years; provided that if notes in anticipation of bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five (5) years shall be deducted from the maximum maturity of such bonds.

Director of Finance
City of Avon, Ohio

ORDINANCE NO. 47-14

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF BONDS OF THE CITY OF AVON, OHIO, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$5,500,000 FOR THE PURPOSE PAYING THE CITY'S PORTION OF THE COSTS OF THE CONSTRUCTION OF AN INTERCHANGE AT NAGEL ROAD ON INTERSTATE 90 AND PAYING FINANCING COSTS ASSOCIATED THEREWITH, AND ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 57-11 passed June 20, 2011, the Council of the City authorized the issuance of notes in anticipation of the issuance of bonds in the principal amount of \$18,500,000 ("Nagel Road Interchange Notes") for the purpose of paying the City's portion of the costs of the construction of an interchange at Nagel Road on Interstate 90, and all necessary appurtenances thereto (the "Nagel Road Interchange Project"); and

WHEREAS, the Nagel Road Interchange Notes were refunded, in part, with the proceeds of notes in the principal amount of \$24,135,000 issued pursuant to Ordinance Nos. 55-11, 56-11, 57-11, 58-11, 64-11, 65-11, 66-11 and 67-11, passed June 20, 2011, which notes were part of a consolidated issue of Various Purpose General Obligation Bond Anticipation Notes, Series 2011, which notes were dated July 12, 2011 and matured July 3, 2012 (the "2011 Note Issue"); and

WHEREAS, the 2011 Note Issue was refunded, in part, with the proceeds of notes in the principal amount of \$18,695,000 issued pursuant to Ordinance Nos. 54-12 and 55-12, passed May 29, 2012, which notes were part of a consolidated issue of Various Purpose General Obligation Bond Anticipation Notes, Series 2012-I, which notes were dated June 28, 2012 and matured June 27, 2013 (the "2012 Note Issue"); and

WHEREAS, the 2012 Note Issue was refunded, in part, with the proceeds of notes in the principal amount of \$8,180,000 issued pursuant to Ordinance No. 78-13, passed June 10, 2013, which notes were part of a consolidated issue of Various Purpose General Obligation Bond Anticipation Notes, Series 2013, which notes are dated June 26, 2013 and will mature June 25, 2014 (the "Notes"); and

WHEREAS, this Council hereby determines that the City should retire the Notes by the issuance of bonds in a principal amount now estimated not to exceed \$5,500,000 and with other funds of the City for the purpose hereinafter stated; and

WHEREAS, this Council has previously passed Ordinance Nos. 06-07, 155-07, 144-08, 171-08, 38-10 and 83-10 (collectively, the "TIF Ordinances"), pursuant to which it declared certain improvements (the "Improvements") to property identified in said Ordinances (herein the "Property") to be a public purpose in accordance with Section 5709.40 of the Ohio Revised Code and pursuant to which payments in lieu of taxes ("PILOTS") are required to be made in connection with the increase in assessed valuation of the Property as a result of the Improvements and under the terms of the TIF Ordinances and Section 5709.42 of the Ohio Revised Code; and

WHEREAS, the Director of Finance of the City of Avon, Ohio, as fiscal officer, has certified to this Council that the estimated life of the improvements hereinafter mentioned is at least five (5) years and has further certified that the maximum maturity of the bonds is twenty-five (25) years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Avon, Ohio that:

Section 1. It is hereby declared necessary to issue Bonds (the “Bonds”) of the City in an aggregate principal amount not to exceed of \$5,500,000 for the purpose of paying the City’s portion of the costs of the construction of an interchange at Nagel Road on Interstate 90 and paying financing costs associated therewith, and all necessary appurtenances thereto. If the Bonds are to be initially offered to the public at a price at least equal to 100% of their aggregate principal amount, but if any of the Bonds are to be initially offered to the public at an original issue discount (any such original issue discount being hereinafter referred to as an “Original Issue Discount”), then the maximum aggregate principal amount of the Bonds hereby authorized shall be increased over \$5,500,000 by an amount equal to the sum of the products from multiplying the Original Issue Discount at which each Bond to be sold with an Original Issue Discount is to be initially offered to the public by the principal amount of the Bonds so offered.

Section 2. The Bonds shall be issued in one lot and only as fully registered Bonds. The Bonds may be issued in the denomination of \$5,000 or any integral multiple of \$5,000, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as determined by the Fiscal Officer in his Certificate of Award (defined below), but no later than June 18, 2014.

As used in this section and this Ordinance:

“Capital Appreciation Bonds” means any Bonds designated as such in the Certificate of Award, maturing in the years, being in the principal amounts, and having the Maturity Amounts set forth therein, and bearing interest accrued and compounded on each Interest Accretion Date and payable at maturity.

“Closing Date “ means the date of issuance of the Bonds.

“Compound Accreted Amount” means, with respect to any Capital Appreciation Bond, the principal amount thereof plus interest accrued and compounded on each Interest Accretion Date to the date of maturity or other date of determination. The Compound Accreted Amount of the Capital Appreciation Bonds of each maturity as of each Interest Accretion Date shall be set forth in the Certificate of Award. The Compound Accreted Amount of any Capital Appreciation Bond for each maturity as of any date other than an Interest Accretion Date is the sum of (a) the Compound Accreted Amount for such Bond on the immediately preceding Interest Accretion Date plus (b) the product of (i) the difference between (A) the Compound Accreted Amount of that Bond on the immediately preceding Interest Accretion Date and (B) the Compound Accreted Amount of that Bond on the immediately succeeding Interest Accretion Date, times (ii) the ratio of (C) the number of days from the immediately preceding Interest Accretion Date to the date of determination to (D)

the total number of days from that immediately preceding Interest Accretion Date to the immediately succeeding Interest Accretion Date; provided, however, that in determining the Compound Accreted Amount of a Capital Appreciation Bond as of a date prior to the first Interest Accretion Date, the Closing Date shall be deemed to be the immediately preceding Interest Accretion Date and the principal amount of that Capital Appreciation Bond shall be deemed to be the Compound Accreted Amount on the Closing Date.

“Current Interest Bonds” means, collectively, the Current Interest Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

“Current Interest Serial Bonds” (or “Serial Bonds”) means those Current Interest Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“Interest Accretion Dates” means, the Interest Accretion Dates as defined in the Certificate of Award.

“Interest Payment Dates” means the Interest Payment Dates as defined in the Certificate of Award.

“Maturity Amount” means, with respect to a Capital Appreciation Bond, the principal and interest due and payable at the stated maturity of that Capital Appreciation Bond.

“Term Bonds” means those Current Interest Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

“Valuation Date” means with respect any Capital Appreciation Bond, each date set forth in the Certificate of Award on which a specific Compound Accreted Amount is assigned to such Capital Appreciation Bond.

The Current Interest Bonds shall bear the rate or rates of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be determined, subject to Section 3 of this Ordinance, by the Fiscal Officer in the Certificate of Award provided that the maximum average interest rate on the Current Interest Bonds shall not exceed seven percent (7%) per annum. Interest on the Current Interest Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Current Interest Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

Any Capital Appreciation Bonds shall bear interest from the Closing Date at the compounding rate or rates of interest (computed on the basis of a 360-day year consisting of twelve 30-day months), accrued and compounded on each Interest Accretion Date and payable at maturity, which will result in the aggregate Maturity Amounts payable at maturity, as shall be determined, subject to Section 3 of this Ordinance, by the Fiscal Officer in the Certificate of Award, provided that the Capital Appreciation Bonds of any one stated maturity all shall bear the same compounding

rate of interest. The total interest accrued on any Capital Appreciation Bond as of any particular date shall be an amount equal to the amount by which the Compound Accreted Amount of that Capital Appreciation Bond exceeds the original principal amount of that Capital Appreciation Bond as of that date.

Section 3. The Bonds shall mature on such dates and in such principal amounts as are fixed by the Fiscal Officer in the Certificate of Award, consistent with the Fiscal Officer's determination of the best interest of and financial advantages to the City, provided, however, that the first principal payment shall not be later than as set forth in Section 133.21 of the Ohio Revised Code, as amended.

Consistent with the foregoing and in accordance with the Fiscal Officer's determination of the best interest of and financial advantages to the City, the Fiscal Officer shall specify in the Certificate of Award, among other things, (i) the aggregate principal amount of any Bonds to be issued as Current Interest Bonds, the dates on which those Bonds shall be stated to mature (or be subject to mandatory sinking fund redemption) and the principal amount thereof that shall be stated to mature (or be subject to mandatory sinking fund redemption) on such dates, and (ii) the aggregate principal amount of any Bonds to be issued as Capital Appreciation Bonds and the corresponding aggregate Maturity Amount thereof, the dates on which those Bonds shall be stated to mature, and the principal amount and corresponding Maturity Amount thereof that shall be payable on each such date.

The Capital Appreciation Bonds, if any, shall not be subject to redemption prior to stated maturity. Except as otherwise provided in the Certificate of Award consistent with the determination by the signing officer of the best interest of and financial advantages to the City, the Current Interest Bonds shall be subject to Mandatory Sinking Fund Redemption, as hereinafter described, to redemption prior to stated maturity at the option of the City in accordance with the terms and conditions set forth in the Certificate of Award.

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

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

The aggregate of the moneys to be deposited with the Paying Agent (as defined in Section 6 hereof) for payment of principal of and interest on any Term Bonds shall include amounts sufficient to redeem on the Mandatory Redemption Dates the principal amount of Term Bonds payable on those dates pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as provided below).

The City shall have the option to deliver to the Registrar (as defined in Section 6 hereof) for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current Mandatory Sinking Fund Redemption Requirement (and corresponding

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

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

(b) Optional Redemption. The Current Interest Bonds shall be subject to redemption prior to maturity by and at the option of the City, in whole or in part at any time on the dates and for the prices specified in the Certificate of Award, provided, however, that the Fiscal Officer may determine in the Certificate of Award that it is in the best interest of the City that the Current Interest Bonds not be subject to redemption prior to maturity. If the Current Interest Bonds are subject to redemption, the maximum redemption price shall be no greater than 103% of the principal amount redeemed, plus accrued interest to the redemption date.

If optional redemption at a price exceeding 100% of the principal amount to be redeemed is to take place as of any applicable Mandatory Redemption Date, the bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Bonds to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements of paragraph (a). The Bonds shall be redeemed pursuant to this paragraph only upon written notice from the Fiscal Officer to the Registrar and Paying Agent, given upon the direction of the Council of the City by passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Paying Agent. In the event that notice of redemption shall have been given by the Registrar to the registered owners as hereinafter provided, there shall be deposited with the Paying Agent on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Registrar, will be sufficient to redeem at the redemption price thereof, plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

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

(d) Notice of Redemption. The notice of the call for redemption of bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each bond subject to redemption in whole or in part at the registered owner's address shown on the Register maintained by the Registrar at the close of business on the 15th day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any bond, however, shall not affect the validity of the proceedings for the redemption of any bonds.

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

Section 4. The Bonds shall be designated “Nagel Road Interchange General Obligation Bonds (Limited Tax), Series 2014”. Pursuant to Section 133.30(B), Ohio Revised Code, the Fiscal Officer may combine the Bonds with other bonds into a single consolidated issue of bonds for purposes of their sale as a single issue to be designated “Various Purpose General Obligation (Limited Tax) Bonds, Series 2014.” Such Bonds shall contain a summary statement of purposes for which the Bonds are issued; shall state that they are issued pursuant to this Ordinance; shall be executed by the Mayor and by the Fiscal Officer, one or both of whose signatures may be a facsimile signature; shall be issued only in fully registered form; and shall be registered as to both principal and interest at the corporate trust office of the Registrar. The Bonds shall be issued in the denominations and numbers as requested by the original purchaser (the “Original Purchaser”) and approved by the Fiscal Officer, and shall be numbered as determined by the Fiscal Officer. The principal on the Bonds shall be payable upon presentation and surrender to the Paying Agent. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name that Bond is registered (the “Holder”) on the registration books of the City maintained by the Registrar and at the address appearing thereon at the close of business of the fifteenth (15th) day of the calendar month next preceding the Interest Payment Date (the “Regular Record Date”). Any interest not timely paid (the “Defaulted Interest”) shall cease to be payable to the person who is the Holder as of the Regular Record Date and shall be payable to the person who is the Holder at the close of business on a special record date for the payment of such defaulted interest. Such Special Record Date (the “Special Record Date”) shall be fixed by the Council of the City whenever moneys become available for payment of the Defaulted Interest, and the Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, not less than ten (10) days prior thereto to each Holder at his address as it appears on the registration books of the City maintained by the Registrar. The principal and interest on the Bonds is payable in lawful money of the United States of America without deduction for the services of the Registrar or Paying Agent.

No Bond shall be valid or become obligatory for any purpose unless and until an authentication certificate appearing on the Bond shall have been duly endorsed by the Registrar.

Any Bond, upon surrender thereof at the principal corporate trust office of the Registrar, together with an assignment duly executed by the Holder or his duly authorized attorney in such form as shall be satisfactory to the Registrar, at the option of the Holder thereof, may be exchanged for Bonds of any authorized denomination or denominations in an aggregate principal amount not exceeding the principal amount of the Bond so exchanged, and bearing interest at the same rate and maturing on the same date.

Any Bond may be transferred only upon the books kept for the registration and transfer of Bonds upon surrender thereof at the principal corporate trust office of the Registrar together with an assignment duly executed by the Holder or his duly authorized attorney in such form as shall be satisfactory to the Registrar. Upon the transfer of any such Bond and on request of the Registrar, the City shall execute in the name of the transferee, and the Registrar shall authenticate and deliver, a new Bond, of any authorized denomination, in aggregate principal amount equal to the principal amount of such Bond, and bearing interest at the same rate and maturing on the same date.

In all cases in which Bonds shall be exchanged or transferred, the City shall execute and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this ordinance. The City and Registrar may make a charge for every such exchange or transfer of Bonds sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to such exchange or transfer, and the Registrar may require that such charge or charges shall be paid before any such new Bond shall be delivered.

The Bonds, pursuant to the terms set forth below, may also be issued to a Depository (as hereinafter defined) for use in a book-entry system (as hereinafter defined). The Fiscal Officer is hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the registration, authentication, immobilization, and transfer of Bonds, including arrangements for the payment of principal and interest by wire transfer, after determining that the execution thereof will not endanger the funds or securities of the City, which determination shall be conclusively evidenced by the signing of any such agreement.

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

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

As used in this Section and this ordinance:

"Book-entry form" or "book-entry system" means a form or system under which (i) the beneficial right to principal and interest may be transferred only through a book entry and (ii) physical bonds in registered form are issued only to a Depository or its nominee as registered owner, with the bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in that principal and interest.

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

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

Section 5. The Bonds shall be sold at private sale to The Huntington Investment Company (the "Original Purchaser") in a manner and upon terms determined by the Fiscal Officer to be in the best interest of the City and shall be awarded by the Fiscal Officer, with the final purchase price, aggregate principal amount, interest rate or rates, redemption provisions, if any, and principal installments due at stated maturity or pursuant to Mandatory Sinking Fund Redemption Requirements as set forth in the Certificate of Award, in accordance with law, and the provisions of this Ordinance, provided that the purchase price shall not be less than 97% of par plus accrued interest to their date of delivery. The Mayor and the Fiscal Officer, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents, agreements, representations and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance. The services of Calfee, Halter & Griswold LLP, Bond Attorneys, Cleveland, Ohio, as Bond Counsel for the Bonds are hereby retained, and the Director of Finance shall cause the Bonds to be prepared, and shall have the Bonds signed and delivered, together with a true transcript of proceedings with respect to the issuance of the Bonds, to the original purchaser thereof upon payment of the purchase price therefor. The Director of Finance of the City is hereby authorized and directed to deliver the Bonds, when executed, to the original purchaser thereof upon payment of the purchase price. The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Bonds are being issued under the provisions of this Ordinance and to pay those costs set forth in Section 133.15, Ohio Revised Code, and any such costs which are future financing costs may be paid from the same sources from which the principal of and interest on the Bonds are paid. Any premium received by the City and accrued interest shall be transferred to the City's Bond Retirement Fund to be applied to the payment of the principal of and interest on the Bonds in the manner provided by law.

The Director of Finance is hereby authorized, if he determines it to be in the best interests of the City, to retain the services of a qualified financial advisor in connection with the issuance of the Bonds.

A preliminary official statement of the City relating to the original issuance of the Bonds is authorized to be distributed. The Mayor and Fiscal Officer, and either one of them, are authorized and directed to complete and sign, on behalf of the City and in their official capacities, an official statement, with such modifications, changes and supplements from the preliminary official statement as those officers or any one of them shall approve or authorize. Those officers are authorized, on behalf of the City and in their official capacities, to (i) determine, and to certify or otherwise represent, when the official statement is "deemed final" (except for permitted omissions) by the City as of its date or is a final official statement for

purposes of SEC Rule 15c2-12(b)(1), (3) and (4), (ii) use and distribute, or authorize the use and distribution of, those official statements and any supplements thereto in connection with the original issuance of the Bonds, and (iii) complete and sign those official statements as so approved together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements.

If, in the judgment of the Fiscal Officer, the filing of an application for a rating on the Bonds by one or more nationally-recognized rating agencies is in the best interest of and financially advantageous to the City, the Fiscal Officer is authorized to prepare and submit those applications, to provide to each such agency such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Section 6. U.S. Bank National Association, Cleveland, Ohio is hereby appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent for the Bonds (the "Registrar" or "Paying Agent," as applicable). The Fiscal Officer shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Registrar (the "Agreement"). The Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Agreement from the proceeds of the Bonds to the extent available and then from other moneys lawfully available and appropriated or to be appropriated for that purpose.

Section 7. For the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide a fund sufficient to pay the principal of the Bonds when due, there shall be and is hereby levied on all taxable property in the City, in addition to all other taxes, a direct tax annually during the period said Bonds are to run in an amount sufficient to provide funds to pay the interest upon said Bonds as and when the same fall due, and also to provide a fund for the payment of the principal of the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio; provided, however, that in each year to the extent that revenues, including PILOTs, are available from other sources for the payment of the Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of the revenues so available and appropriated. The City covenants that the PILOTs derived from the TIF Ordinances shall be used for the purpose of paying all or a portion of the principal of and interest on the Bonds.

Section 8. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund, which, together with the interest collected on the same (other than such interest as may be required to be rebated to the federal government), shall be irrevocably pledged for the payment of the principal of and interest on said Bonds when and as the same fall due; provided, however, that in each year to the extent that revenues are available from other

sources for the payment of the Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such revenues so available and appropriated.

Section 9. That while the Bonds are outstanding, and to the extent PILOTs are not sufficient to pay principal of and interest on the Bonds, the City hereby covenants to appropriate annually, to the extent required, sufficient amounts from municipal income tax revenues to pay principal and interest on the Bonds when the same fall due, and to continue to levy and collect the municipal income tax in an amount necessary to meet debt charges on the Bonds. On or before the maturity date of the Bonds, the City covenants to deposit into the Bond Retirement Fund, from available municipal income tax funds appropriated for the purpose, an amount necessary to meet any shortfall that may exist between the amount then available in the Bond Retirement Fund and the amount of principal and interest due at maturity of the Bonds. The City has not pledged any other funds of the City to pay the debt charges on the Bonds.

Section 10. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in and for the issuing of said Bonds in order to make them legal, valid and binding obligations of the City have been performed in regular and due form as required by law; that the full faith and credit of said City shall be and are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, will be exceeded in issuing said Bonds.

Section 11. The City covenants that it will restrict the use of the proceeds of said Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The Fiscal Officer, as the fiscal officer, or any other officer of the City having responsibility for the issuance of the Bonds shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on the Bonds.

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

Section 12. The City hereby designates the Bonds as “qualified tax-exempt obligations.” Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Bonds as “qualified tax-exempt obligations,” it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Bonds are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

Section 13. The Fiscal Officer is authorized and directed to execute a continuing disclosure certificate (the “Disclosure Certificate”) setting forth the City’s undertaking to provide annual reports and notices of certain events dated the date of delivery of the Bonds and delivered to the original purchaser of the Bonds for the benefit of the holders of the Bonds (the “Bondholders”) and to assist the original purchaser in complying with S.E.C. Rule 15c2-12(b)(5). The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Disclosure Certificate. Failure of the City to comply with the Disclosure Certificate shall not be considered an event of default; however, any Bondholder may take such actions as may be necessary and appropriate to cause the City to comply with its obligations under this Section.

Section 14. If, in the judgment of the Fiscal Officer, the filing of an application for a policy of insurance from a company or companies to better assure the payment of principal and interest on the Bonds, is in the best interest of and financially advantageous to the City, the Council authorizes and directs the Fiscal Officer to prepare and submit that application and to provide to that company or companies the information required for the purpose. This Council authorizes and approves the expenditure of the amounts necessary to secure such insurance and authorizes and directs the Fiscal Officer to provide for the payment of those amounts from any funds lawfully available that are appropriated for that purpose and to enter into such contracts with a bond insurer as may, in the judgment of the Fiscal Officer, be necessary to secure such insurance on terms which are in the best interest of and financially advantageous to the City.

Section 15. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds, in order to make them legal, valid and binding obligations of the City, have been done or will have been done and performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will be exceeded in the issuance of the Bonds.

Section 16. The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the County Auditor of Lorain County and to secure a receipt therefor.

Section 17. The Mayor, Director of Finance, Law Director and the Clerk of Council, as appropriate, are each authorized and directed to prepare, execute and deliver any transcript certificates, financial statements and other documents, agreements, representations and instruments and to take such actions as are necessary or appropriate to consummate the issuance of the Bonds as provided in this Ordinance.

Section 18. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including the City's Charter, Codified Ordinances and any applicable provisions of Section 121.22 of the Ohio Revised Code.

Section 19. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City, and for the further reason that the immediate issuance at sale of the Bonds herein authorized is necessary to permit the City to obtain favorable terms in a fluctuating bond market, and therefore, this Ordinance shall be in full force and effect immediately upon passage of Council by the required three-fourths majority and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director