

Ordinance No. 161-2021

By Council Member Kelley
(by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the issuance and sale of bonds in the maximum principal amount of \$65,000,000 for the purpose of providing funds to improve facilities for the discharge of governmental functions or for services otherwise benefitting public safety, health and welfare, and authorizing related matters.

WHEREAS, this Council desires to issue bonds in an aggregate principal amount not to exceed \$65,000,000 (the "Series 2021 Bonds") to finance the costs of certain permanent improvements described in Section 1, unless it is determined by the Director of Finance that it would instead be in the best interests of the City to issue general obligation bonds of the City to finance such permanent improvements, as authorized under separate legislation; and

WHEREAS, the Series 2021 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 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 2021 Bonds is at least five years and the maximum maturity of the Series 2021 Bonds is 25 years, as evidenced by the certificate contained in **File No. 161-2021-A**; and

WHEREAS, the authorization for issuance of the Series 2021 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 2021 Bonds in an aggregate principal amount not to exceed \$65,000,000 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 acquiring, constructing, reconstructing, rehabilitating, installing, renovating, enlarging and otherwise improving buildings, structures and other facilities, including new facilities of and for the City Division of Police, the provision of necessary fixtures, furnishings, equipment and site improvements, and all necessary and related appurtenances, and the acquisition of any required real estate and interests in real estate, 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 2021 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 2021 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

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service on the Series 2021 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 2021 Bonds shall be issued and secured under the terms of the Trust Indenture, dated as of April 1, 2008, between the City and U.S. Bank National Association, as trustee (the "Trustee"), as amended by Section 6.1 of the Second Supplemental Trust Indenture, dated as of June 1, 2010, between the City and the Trustee (together, the "Indenture"). The Indenture currently secures two series of Subordinate Lien Income Tax Bonds issued on June 23, 2010 (collectively, the "Series 2010 Bonds"), one series of Subordinate Lien Income Tax Bonds issued on November 29, 2012 (the "Series 2012 Bonds"), three series of Subordinate Lien Income Tax Bonds issued on May 30, 2013 (collectively, the "Series 2013 Bonds"), three series of Subordinate Lien Income Tax Bonds issued on February 11, 2014 (collectively, the "Series 2014A Bonds"), three series of Subordinate Lien Income Tax Bonds issued on June 11, 2014 (collectively, the "Series 2014B Bonds"), three series of Subordinate Lien Income Tax Bonds issued on April 9, 2015 (collectively, the "Series 2015A Bonds"), five series of Subordinate Lien Income Tax Refunding Bonds issued on September 16, 2015 (collectively, the "Series 2015B Bonds"), five series of Subordinate Lien Income Tax Bonds issued on June 13, 2017 (collectively, the "Series 2017A Bonds"), two series of Subordinate Lien Income Tax Refunding Bonds issued on December 28, 2017 (collectively, the "Series 2017B Bonds"), one series of Subordinate Lien Income Tax Bonds issued on July 19, 2018 (the "Series 2018 Bonds"), and three series of Subordinate Lien Income Tax Refunding Bonds issued on February 26, 2020 (collectively, the "Series 2020 Bonds"), and permits the issuance of additional bonds, from time to time, subject to certain restrictions. The Series 2010 Bonds, the Series 2012 Bonds, the Series 2013 Bonds, the Series 2014A Bonds, the Series 2014B Bonds, the Series 2015A Bonds, the Series 2015B Bonds, the Series 2017A Bonds, the Series 2017B Bonds, the Series 2018 Bonds, the Series 2020 Bonds, the Series 2021 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 2021 Bonds. The Series 2021 Bonds shall be issued in fully registered form. The Series 2021 Bonds may be issued in one or more series or subseries. The Series 2021 Bonds may be delivered only in book-entry form, and if so delivered, 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 Thirteenth Supplement identified in Section 7. The Series 2021 Bonds shall be designated "Public Facilities Improvement Bonds, Series 2021" and may contain such further designation as provided in the Certificate of Award identified below. The Series 2021 Bonds shall be issued in one lot as fully registered Series 2021 Bonds in denominations of \$5,000 or any whole multiple thereof. The Series 2021 Bonds shall be

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numbered as determined by the Director of Finance. The Series 2021 Bonds shall be signed by the officials of the City and in the manner set forth in the Indenture.

The Series 2021 Bonds shall be dated the date of their issuance and delivery or such other date specified in the certificate of award providing for the final terms of the Series 2021 Bonds and the sale of the Series 2021 Bonds in accordance with this Ordinance (the "Certificate of Award"). The Series 2021 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 yield (determined in accordance with the arbitrage provisions of the Internal Revenue Code of 1986, as amended) of the Series 2021 Bonds shall not exceed 6% per year, if sold as fixed rate obligations. Interest on the Series 2021 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 provisions of Sections 9.98 to 9.983 of the Revised Code shall apply to the Series 2021 Bonds 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 Series 2021 Bonds 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 Series 2021 Bonds shall be determined; provided that the variable rate Series 2021 Bonds shall not bear interest at a rate in excess of 25% per year. The Director of Finance is authorized to enter into agreements in connection with the delivery of the variable rate Series 2021 Bonds, and from time to time thereafter so long as the variable rate Series 2021 Bonds 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 Series 2021 Bonds upon tender for purchase or redemption, and providing for the repayment by the City of any amounts drawn under the Credit Support Instrument.

The Series 2021 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 2021 Bonds shall be no later than August 1, 2048; provided that the Series 2021 Bonds shall not have more than 25 annual principal installments. The Series 2021 Bonds stated to mature in any year may be issued as serial Series 2021 Bonds or as term Series 2021 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 2021 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 2021 Bonds are issued as Term Series 2021 Bonds, the Term Bonds shall be redeemed pursuant to the Mandatory Sinking Fund Redemption Requirements at a redemption price of 100% 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 Thirteenth Supplement).

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The Series 2021 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 2021 Bonds not to be callable prior to their stated maturity, and (ii) for a premium to be payable on the redemption of any Series 2021 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 Thirteenth Supplement.

If and to the extent provided in the Certificate of Award, the Series 2021 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 2021 Bonds may include provision for funding the Debt Service Reserve Fund from the proceeds of the Series 2021 Bonds, subject to compliance with applicable federal tax laws.

Section 5. Sale of Series 2021 Bonds. The Series 2021 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 the purchaser identified in the Certificate of Award (the "Original Purchaser"). The Certificate of Award shall specify the final terms of the Series 2021 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 2021 Bonds, including: the principal amount of the Series 2021 Bonds (which shall not exceed the amount stated in Section 1), 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 2021 Bonds may be redeemed prior to maturity at the option of the City, the Interest Payment Dates and the date of the Series 2021 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 2021 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 2021 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 2021 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 2021 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 by the Director of Law, setting forth the terms and conditions on which the City agrees to sell the Series 2021 Bonds and the Original Purchaser agrees to buy the Series 2021 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

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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 2021 Bonds, as provided in this Ordinance and as may be provided in or pursuant to the Certificate of Award, the Indenture and the Thirteenth 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 2021 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 2021 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;

(d) 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 2021 Bonds as original issue premium from the sale of the Series 2021 Bonds; and

(e) to the Trustee for deposit in the Project Fund, the balance of the proceeds.

Section 7. Supplemental Indenture. The Director of Finance is authorized to sign and deliver on behalf of the City a supplemental trust indenture (the “Thirteenth Supplement”), supplementing the Indenture to provide procedures for the authentication, registration and transfer of the Series 2021 Bonds, redemption of Series 2021 Bonds, payments under any Credit Support Instrument authorized by Section 11, application of the proceeds of the Series 2021 Bonds, defeasance of the Series 2021 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 Thirteenth Supplement shall be approved as to form by the Director of Law. The determination by the Director of Finance that the provisions of the Thirteenth Supplement are not substantially adverse to the City shall be conclusively evidenced by the Director’s signing of the Thirteenth 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 Thirteenth Supplement as may be necessary or appropriate to issue and sell the Series 2021 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 2021 Bonds for the purpose set forth in Section 1, notes of the City may be issued in an aggregate principal amount not to exceed \$65,000,000 (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 5% 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

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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 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 2021 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 2021 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 2021 Bonds, the City agrees, in accordance with, and as the only

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obligated person with respect to the Notes and the Series 2021 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 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 2021 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. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Series 2021 Bonds and any Notes in such manner and to such extent as may be necessary so that (i) the Series 2021 Bonds and any Notes will not (A) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (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 Series 2021 Bonds and any Notes 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 Series 2021 Bonds and any Notes 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 Series 2021 Bonds and any 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 exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Series 2021 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 2021 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, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or tax status of the Series 2021 Bonds and any Notes or interest thereon, 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 2021 Bonds and any Notes and (iii) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2021 Bonds and any Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2021 Bonds and any Notes, the facts, circumstances and estimates on which they are based, and

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other facts and circumstances relevant to the tax treatment of the interest on the Series 2021 Bonds and any Notes and the tax status of the Series 2021 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 2021 Bonds or any Notes (a “Credit Support Instrument”). The Director of Finance may request a rating on the Series 2021 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 2021 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 2021 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 that all deliberations of this Council any of its committees 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 2021 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 2021 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 Fiscal Officer. The Director of Finance is authorized to forward a certified copy of this Ordinance and of the Certificate of Award for the Series 2021 Bonds and any Note Certificate of Award to the County Fiscal Officer of Cuyahoga County and to secure a receipt therefor.

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

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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 2021 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 2021 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.

DDR:nl
3-8-2021
FOR: Director Dumas

By Council Member Kelley (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the issuance and sale of bonds in the maximum principal amount of \$65,000,000 for the purpose of providing funds to improve facilities for the discharge of governmental functions or for services otherwise benefitting public safety, health and welfare, and authorizing related matters.

**READ FIRST TIME on MARCH 8, 2021
and referred to DIRECTORS of Finance, Law;
COMMITTEE on Finance**

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

**PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE**

FILED WITH COMMITTEE

