

Ordinance No. 1362-17

AN EMERGENCY ORDINANCE

**Council Member Kelley
(by departmental request)**

Authorizing supplemental lease-purchase agreements, and other agreements relating to the lease-purchase of the Cleveland Stadium, now known as FirstEnergy Stadium; approving the issuance of refunding certificates of participation or conversion and remarketing of variable rate certificates of participation and related supplemental trust agreements; and authorizing and approving related matters.

WHEREAS, pursuant to Ordinance No. 305-96 passed by the Council of the City on March 8, 1996, and for the purpose of acquiring by lease-purchase the Cleveland Stadium, now known as FirstEnergy Stadium (the “Cleveland Stadium”), the City signed and delivered a Lease-Purchase Agreement dated as of June 1, 1997 (as amended and supplemented, the “Facility Lease”) between the Cleveland-Cuyahoga County Port Authority (the “Authority”), as lessor, and the City, as lessee, and approved a Trust Agreement dated as of June 1, 1997 (as amended and supplemented, the “Trust Agreement”), between the Authority and U.S. Bank National Association, as trustee (the “Trustee”), pursuant to which the Trustee signed and delivered various series of Certificates (as defined in the Trust Agreement), each such series of Certificates evidencing proportionate interests in Base Rent (as defined in the Facility Lease) to be paid by the City pursuant to the Facility Lease; and

WHEREAS, under the Trust Agreement, Additional Certificates (as defined in the Trust Agreement) may, with the approval of the City, be issued to pay the cost of refunding Outstanding Certificates (as defined in Section 1); and

WHEREAS, this Council has determined to authorize the issuance of Additional Certificates (“Refunding Certificates”) under the Trust Agreement, or the conversion of the interest rate on and remarketing of Outstanding Certificates, to refund or restructure Outstanding Certificates and corresponding Base Rent payments, as provided in this Ordinance; and

WHEREAS, this Ordinance constitutes an emergency measure providing for the refinancing of securities of the City and providing for the immediate preservation of the public peace, property, health or safety in that authorizing the refunding and restructuring of Outstanding Certificates and related credit support, hedging arrangements and other agreements is necessary to enable the City to respond to changeable market conditions on a timely basis to obtain debt service savings or to stabilize interest rates or to minimize risks of increased interest expense or increased risks, burdens, or other costs associated with hedging arrangements or credit support instruments in connection with the lease-purchase of the Cleveland Stadium, to mitigate burdensome Certificate Payments and corresponding Base Rent payments or to remove, avoid or mitigate unduly restrictive covenants or costs of funding or maintaining reserves; now, therefore,

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

Section 1. Definitions. In addition to the words and terms defined in the Existing Trust Agreement and Existing Facility Lease (as defined in this Section), the following words and terms shall have the following meanings unless the context or use indicates a contrary meaning or intention:

“Credit Support Instrument” means an insurance policy, surety, letter of credit, standby securities purchase agreement or other credit enhancement, support or liquidity device used to enhance or provide for the security or liquidity of any Certificates or any Hedge Agreements.

“Existing Facility Lease” means the Lease-Purchase Agreement dated as of June 1, 1997, as supplemented and amended by the First Supplemental Lease-Purchase Agreement dated as of September 15, 1999, the Second Supplemental Lease Purchase Agreement dated as of December 1, 2001, the Amended and Restated Third Supplemental Lease-Purchase Agreement dated as of October 1, 2007, the Fourth Supplemental Lease-Purchase Agreement dated May 29, 2008, and the Fifth Supplemental Lease-Purchase Agreement dated as of April 1, 2010, each between the Authority, as lessor, and the City, as lessee.

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“Existing Ground Lease” means the Ground Lease dated as of June 1, 1997, as supplemented and amended by the First Supplemental Ground Lease dated as of September 15, 1999, the Second Supplemental Ground Lease dated as of December 1, 2001, and the Third Supplemental Ground Lease dated as of April 1, 2010, each between the City, as lessor, and the Authority, as lessee.

“Existing Trust Agreement” means the Trust Agreement dated as of June 1, 1997, as supplemented and amended by the First Supplemental Trust Agreement dated as of September 15, 1999, the Second Supplemental Trust Agreement dated as of October 1, 2007, the Third Supplemental Trust Agreement dated May 29, 2008, the Fourth Supplemental Trust Agreement dated as of April 1, 2010 and the Fifth Supplemental Trust Agreement dated as of March 21, 2013, each between the Authority and the Trustee.

“Facility Lease” means the Existing Facility Lease as supplemented and amended from time to time by a Supplemental Lease.

“Financial Advisor” means any financial advisory firm or firms retained by the Director of Finance of the City, from time to time, in connection with any Certificates or any Hedge Agreements.

“Ground Lease” means the Existing Ground Lease as supplemented and amended from time to time by a Supplemental Ground Lease.

“Hedge Agreement” has the meaning given in Section 3 of this Ordinance.

“Original Purchaser” means, with respect to each series of Refunding Certificates, the party or, collectively, parties identified as such in the Purchase Agreement for that series.

“Outstanding Certificates” means Certificates issued and outstanding at any time under the Trust Agreement. On the date of introduction of this Ordinance, the Outstanding Certificates (and the respective principal amounts then currently outstanding) consisted of the following series of Certificates: Series 2010 (\$99,100,000).

“Purchase Agreement” means, with respect to the issuance of Refunding Certificates, the purchase agreement, commitment or other written agreement between the City and the Original Purchaser or a representative of that Original Purchaser setting forth the terms for the purchase by the Original Purchaser of those Refunding Certificates.

“Purchase Price” means, with respect to a series of Refunding Certificates, the amount specified in the Purchase Agreement for that series to be paid by the Original Purchaser for the purchase of those Refunding Certificates, provided that amount shall be not less than (i) 97% of the amount determined by adding to the aggregate principal amount of the Refunding Certificates any aggregate original issue premium and subtracting from that amount any aggregate original issue discount and any premium or other costs of any Credit Support Instrument purchased from the proceeds of the Refunding Certificates, plus (ii) any accrued interest on the Refunding Certificates from their date to the date of their delivery to the Original Purchaser.

“Refunded Certificates” means the Outstanding Certificates identified in a Supplemental Trust Agreement as the Certificates to be refunded with the proceeds of Refunding Certificates.

“Refunding Certificates” means the Certificates authorized by this Ordinance to be issued as Additional Certificates under the Trust Agreement in one or more series for the purpose of refunding one or more series of Outstanding Certificates or designated portions thereof.

“Series 1999 Certificates” means the Certificates of Participation, Series 1999 (Cleveland Stadium Project), issued under the Trust Agreement on September 29, 1999.

“Series 2010 Certificates” means the Refunding Certificates of Participation, Series 2010 (Cleveland Stadium Project), issued under the Trust Agreement on April 22, 2010.

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“Supplemental Ground Lease” means each Supplemental Ground Lease, and any Amended and Restated Supplemental Ground Lease or Amended and Restated Ground Lease between the City and the Authority, delivered to supplement and amend the Ground Lease, in connection with the issuance of one or more series of Additional Certificates or the conversion and/or remarketing of any Outstanding Certificates or the contracting for or termination or replacement of any Hedge Agreement or Credit Support Instrument relating to any Certificates or for any other purpose permitted for a Supplemental Ground Lease under the Ground Lease.

“Supplemental Lease” means each Supplemental Lease-Purchase Agreement, Amended and Restated Supplemental Lease-Purchase Agreement, or Amended and Restated Lease-Purchase Agreement between the Authority and the City, delivered to supplement and amend the Facility Lease, in connection with the issuance of one or more series of Additional Certificates or the conversion and/or remarketing of any Outstanding Certificates or the contracting for or termination or replacement of any Hedge Agreement or Credit Support Instrument relating to any Certificates or for any other purpose permitted for a Supplemental Lease under the Facility Lease.

“Supplemental Trust Agreement” means each Supplemental Trust Agreement, Amended and Restated Supplemental Trust Agreement, or Amended and Restated Trust Agreement between the Authority and the Trustee, delivered to supplement and amend the Trust Agreement, to provide for the security and terms of one or more series of Additional Certificates or the conversion and/or remarketing of any Outstanding Certificates or the contracting for or termination or replacement of any Hedge Agreement or Credit Support Instrument relating to any Certificates or for any other purpose permitted for a Supplemental Trust Agreement under the Trust Agreement.

“Trust Agreement” means the Existing Trust Agreement as supplemented and amended from time to time by a Supplemental Trust Agreement.

“Trustee” means the bank or trust company at the time serving as Trustee under the Trust Agreement, currently U.S. Bank National Association.

Section 2. Determinations by Council. This Council finds and determines as follows:

(a) Public Purpose. The acquisition, financing and refinancing by the City of the Cleveland Stadium pursuant to the Ground Lease, the Facility Lease and the Trust Agreement and the use of the Cleveland Stadium as a source of public relaxation and entertainment served and serves a proper public municipal purpose.

(b) Supplemental Ground Lease, Supplemental Lease, Supplemental Trust Agreement and Refunding Certificates. It is necessary, proper and in the best interest of the City to authorize one or more Supplemental Ground Leases, Supplemental Leases and Purchase Agreements and approve one or more Supplemental Trust Agreements and the issuance of Refunding Certificates in one or more series for the purpose of refunding one or more series of the Outstanding Certificates or designated portions thereof, (i) to obtain aggregate net present value savings in Certificate Payments and corresponding Base Rent payments of at least three percent (3%), (ii) to avoid or mitigate undesirably high rates of interest or undesirable fluctuations in rates of interest in Certificate Payments and corresponding Base Rent payments of Outstanding Certificates that are short-term or variable-rate obligations, or risks or expenses associated with hedging arrangements or credit support instruments of those short-term or variable-rate obligations, or (iii) to eliminate or modify covenants that are unduly restrictive, or to obtain a more favorable Base Rent payment schedule or more favorable terms under credit support instruments.

Separate series of Refunding Certificates may be issued at the same or different times. A Purchase Agreement, Supplemental Lease and Supplemental Trust Agreement shall be delivered for each series and may be delivered for multiple series. A Supplemental Ground Lease shall be delivered for any series of Refunding Certificates with a final maturity later than the final maturity of the then Outstanding Certificates.

This Council finds and determines that the issuance of the Refunding Certificates and signing and delivery of Supplemental Ground Leases, Supplemental Leases and Purchase

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Agreements and approval of Supplemental Trust Agreements in connection with such issuance for the purpose provided in this Ordinance serves a proper, public, municipal purpose by reducing or stabilizing or minimizing risks of increasing the costs to the City of the lease-purchase of the Cleveland Stadium, which is a source of public relaxation and entertainment for the people of the City of Cleveland.

Section 3. Authorization of Hedging Arrangements. This Council finds that by engaging in interest rate hedging arrangements with respect to the Facility Lease and Certificates the City may reduce its financing costs by optimizing the relative amounts of fixed and variable rate obligations, or minimizing the risk of variations in its financing costs, or minimizing any risks, burdens or costs associated with existing hedging arrangements, or obtaining savings by confirming rates of interest on Certificates in advance of their issuance. To permit the City to have the flexibility to undertake, with respect to the Facility Lease and Certificates, interest rate swap, swaption, rate cap, rate collar and other hedging transactions, from time to time, and to establish the procedures for approving those transactions, this Council authorizes the signing and delivery of one or more agreements (each, a "Hedge Agreement"), and any related agreements necessary for the consummation of the transactions contemplated by each Hedge Agreement. The terms of those Hedge Agreements may vary from the terms of any existing Hedge Agreements. The authorizations in this Section are supplemental to and not in derogation of any authority provided by any other ordinance of this Council concerning hedging arrangements.

The City's obligations under any Hedge Agreement shall be subject to appropriation and certification as provided in the Facility Lease. Those payments may be secured by the Facility Lease, to the extent permitted by the Trust Agreement, all as determined by the Director of Finance and set forth in the Hedge Agreement. The obligation of the City to make payments under any Hedge Agreement does not and shall not represent or constitute a general obligation, debt, bonded indebtedness or a pledge of the faith and credit of the City or the State of Ohio. Nothing shall give any party to any Hedge Agreement the right to have excises, ad valorem or other taxes levied by the City or the State of Ohio for the payment of any amounts due under any Hedge Agreement.

Upon the determination of the Director of Finance, based on the written advice of a Financial Advisor, that it is to the financial advantage of the City and in the City's best interests that a hedging arrangement be undertaken by the City with respect to the Facility Lease or any Certificates issued or to be issued under the Trust Agreement, the Director of Finance may authorize one or more interest rate hedge transactions in accordance with the applicable Hedge Agreement; provided that the term of each hedge transaction shall not exceed the final maturity of the Certificates to which the hedge relates.

The Director of Finance shall negotiate the terms of each Hedge Agreement. The City shall receive a written opinion of a Financial Advisor that the payments made or to be made by the counterparty to the City, or by the City to the counterparty, are fair value for the Hedge Agreement, considering, among other things, the credit of the City, the credit of the counterparty and the terms and conditions of the Hedge Agreement. The Director of Finance shall determine the terms and conditions of the Hedge Agreement, including without limitation, the rates to be paid by the counterparty to the City or by the City to the counterparty under the Hedge Agreement, the time or times and procedures for the exercise by the counterparty or the City, as the case may be, of any option under the Hedge Agreement, and whether the obligations of the City under the Hedge Agreement shall be secured by a Credit Support Instrument and, if so, the terms and conditions of such Credit Support Instrument. The approval of each interest rate hedge transaction by the Director of Finance shall be conclusively evidenced by the signing and delivery of the applicable Hedge Agreement by the Director of Finance.

The Director of Finance is further authorized to enter into amendments or modifications or novations of or to terminate in whole or in part any Hedge Agreement or any Credit Support Instrument securing a Hedge Agreement if the Director of Finance determines, based on the written advice of a Financial Advisor, that the City's best interests will be served by such amendment, modification, novation or termination. Any payments owed by the City upon

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such amendment, modification, novation or termination may be paid from the proceeds of Refunding Certificates or from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose.

In the event the Director of Finance determines, based on the written advice of a Financial Advisor, that it is necessary to supplement or amend the Facility Lease or the Trust Agreement in connection with any Hedge Agreement or any amendment, modification, novation or termination of any Hedge Agreement, the Mayor and the Director of Finance are authorized to sign and deliver a Supplemental Lease and to signify approval of the Supplemental Trust Agreement, approved as to form and correctness by the Director of Law. The Director of Finance is further authorized to develop, adopt and revise such policies and procedures as the Director of Finance reasonably concludes are necessary for the evaluation, incurrence, maintenance, monitoring, administration, legal compliance and reporting of any Hedge Agreements.

Section 4. Credit Support Instruments. The Director of Finance is authorized to contract from time to time for one or more Credit Support Instruments for any series of Outstanding Certificates or any Hedge Agreement if the Director determines, based on the written advice of a Financial Advisor, that the Credit Support Instruments will result in savings to the City, will stabilize interest rates or minimize the risk of increased interest expense or increased risks, burdens, or other costs associated with hedging arrangements or reserve requirements relating to those Certificates. The Director of Finance is further authorized to agree to the amendment, replacement, assignment or termination of any such contract if the Director of Finance determines, based on the written advice of a Financial Advisor, that the City's best interests will be served by such amendment, replacement, assignment or termination. In the event the Director of Finance determines that it is necessary to supplement or amend the Ground Lease, Facility Lease or the Trust Agreement in order to permit the use of or to amend, replace, assign or terminate a Credit Support Instrument, the Mayor and the Director of Finance are authorized to sign and deliver a Supplemental Ground Lease or a Supplemental Lease or both and to signify approval of the Supplemental Trust Agreement, approved as to form and correctness by the Director of Law. The cost of obtaining, amending, replacing, assigning or terminating each Credit Support Instrument, except to the extent paid by the Original Purchaser in accordance with the Purchase Agreement or the remarketing agent in accordance with a remarketing agreement, shall be paid from the proceeds of Refunding Certificates or the proceeds of remarketing or from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose.

Section 5. Refunding of Certificates; Escrow Agreements. The Director of Finance is authorized to sign and deliver, in the name and on behalf of the City, one or more escrow agreements between the City and the Trustee, as escrow trustee, providing for, among other matters: the investment and holding in escrow of the proceeds of Refunding Certificates to be applied to the refunding of Refunded Certificates; the application of the moneys derived from those investments to the payment of the Certificate Payments on Refunded Certificates, and the irrevocable call for redemption of Refunded Certificates to be called for redemption prior to maturity. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to each escrow agreement from proceeds of Refunding Certificates to the extent available and then from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose, as determined by the Director of Finance. Provision shall be made in each escrow agreement to give the Trustee any written notice of redemption required under the Trust Agreement. The Director of Finance and other City officials, as appropriate under the Charter, shall sign all documents and take all other actions necessary or appropriate on the part of the City to effect each such refunding in accordance with the Trust Agreement and to cause the Refunded Certificates to be deemed paid and discharged, including without limitation, the retention of an independent public accounting firm to verify the mathematical accuracy of the calculations relating to the escrow. Upon the issuance and delivery of a series of Refunding Certificates, the Trustee and the City are authorized to disburse from the Funds established and maintained under the Trust Agreement such amounts of moneys as are in excess of the balances required by the Trust Agreement to then be maintained in those Funds. The Director of Finance is authorized to give written notice to the Trustee of the call for redemption of

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the Refunded Certificates on the earliest redemption date following the issuance of the Refunding Certificates, pursuant to the Trust Agreement and the applicable escrow agreement.

Section 6. Determination of Base Rent and Terms of Refunding Certificates; Application of Proceeds.

(a) Principal Components and Term. Upon the determination of the Director of Finance, based on the written advice of a Financial Advisor, that it is in furtherance of one or more of the purposes set forth in Section 2(b) of this Ordinance that one or more series of Refunding Certificates be issued to refund Outstanding Certificates, the Director of Finance is authorized to negotiate and provide for the terms of the Refunding Certificates and the Base Rent, as amended pursuant to a Supplemental Lease, including the final Lease Term, and the annual and aggregate principal components of Base Rent. The principal amount of each series of Refunding Certificates and the corresponding principal component of Base Rent is to be the amount set forth in the Purchase Agreement for that series and shall be the amount determined by the Director of Finance, based on the written advice of a Financial Advisor, to be necessary (i) to pay the costs of refunding the Refunded Certificates, (ii) to fund any reserves required under the Trust Agreement, (iii) to pay costs of any Credit Support Instruments, (iv) to pay identified amounts owed under Hedge Agreements, (v) to pay interest on the Refunding Certificates, and (vi) to pay costs of issuing the Refunding Certificates. The Refunding Certificates of each series shall mature on the dates and in the respective principal amounts set forth in the Purchase Agreement for that series, consistent with this Ordinance and the Trust Agreement.

(b) Interest. The Refunding Certificates may be issued as obligations bearing interest at fixed or variable interest rates, based on the determination of the Director of Finance, based on the written advice of a Financial Advisor, as to the financial advantage to, and best interests of, the City, as specified in the Purchase Agreement. If the Director of Finance so determines that Refunding Certificates shall be issued as obligations bearing interest at variable rates, then the method and procedure by which the variable rate of interest to be borne by the Refunding Certificates are to be determined (whether by reference to a market index, by a remarketing agent or otherwise) shall be set forth in the applicable Supplemental Trust Agreement; provided that no Refunding Certificates shall bear interest at a rate in excess of twenty-five percent (25%) per year (including any Refunding Certificate held by a provider of a Credit Support Instrument). The Director of Finance may determine that the terms of a variable rate series of Refunding Certificates may or may not permit the holders to tender their variable rate Refunding Certificates for purchase by the City. If the Director of Finance designates any series of Refunding Certificates as variable rate Certificates, and if the holders of that series of Refunding Certificates are to be entitled to tender those Certificates for purchase, then the Director of Finance shall also designate in the Purchase Agreement for those variable rate Certificates (and may designate others, from time to time, in substitution therefor), the tender agent or agents (which may be the Trustee) and the remarketing agent or agents (which may be an Original Purchaser), which designations shall be based on the determination of the Director of Finance, based on the written advice of a Financial Advisor, that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable. The Director of Finance is authorized to enter into agreements with others in connection with the delivery of the Refunding Certificates, and from time to time thereafter so long as the Refunding Certificates are outstanding, as may be determined by the Director of Finance to be necessary or appropriate to provide for (i) the method of determining the variable interest rates, (ii) the rights and procedures for tender, (iii) liquidity or credit support, (iv) repayment by the City of any amounts drawn under the Credit Support Instrument, (v) the direct purchase of tendered Refunding Certificates, and (vi) other arrangements in the best interests of the City. The Director of Finance is further authorized to terminate any such agreements if the Director of Finance determines, based on the written advice of a Financial Advisor, that the City's best interests will be served by such termination. The Director of Finance is further authorized to enter into agreements, from time to time so long as the variable rate Refunding Certificates are outstanding, supplementing or amending the applicable Supplemental Trust Agreement for a series of Refunding Certificates as provided in Section 9. The Director of Finance is authorized to pay any fees associated with agreements entered into or terminated pursuant to this Section from proceeds of Refunding

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Certificates, to the extent permitted by the Trust Agreement or from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose.

(c) Optional and Mandatory Redemption. The Refunding Certificates of each series, and the corresponding principal component of Base Rent, may be subject to redemption prior to maturity at the option of the City, if and to the extent set forth in the Purchase Agreement for that series. Any Refunding Certificates so determined to be subject to optional redemption and maturing by their stated terms after the earliest optional redemption date shall be subject to redemption at the option of the City on or after the earliest optional redemption date in whole or in part on any date at the redemption prices set forth in the Purchase Agreement and in accordance with the applicable Supplemental Trust Agreement. Refunding Certificates that are subject to optional redemption may be subject to purchase by the City in lieu of optional redemption to the extent provided in the applicable Supplemental Trust Agreement. The Refunding Certificates designated in the Purchase Agreement as term Certificates subject to mandatory sinking fund redemption shall be redeemed prior to maturity on each mandatory redemption date designated in the Purchase Agreement in the aggregate amount of the sinking fund installment to be paid on such mandatory redemption date, all as provided in the Purchase Agreement and in accordance with the Supplemental Trust Agreement.

(d) Credit Support and Other Instruments. The Director of Finance, regardless of whether a series of Refunding Certificates bears interest at variable or fixed rates, is authorized to contract for one or more Credit Support Instruments, if the Director of Finance determines, based on the written advice of a Financial Advisor, that the Credit Support Instruments will result in a savings in the cost of the financing to the City. The costs of such Credit Support Instruments may be paid from proceeds of Refunding Certificates or from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose, as determined by the Director of Finance.

(e) Base Rent. The City acknowledges that the aggregate principal amount of Base Rent under the Facility Lease shall be based on the aggregate principal component of Outstanding Certificates and that the interest on the Base Rent shall be based on the interest components of the Outstanding Certificates. The Base Rent to be payable under and in accordance with the Facility Lease during any Lease Term shall be an amount sufficient to cover the amount of Certificate Payments on the Outstanding Certificates that are due and payable during that Lease Term, and such Base Rent shall be specified or determined in an exhibit to the Facility Lease; provided, however, that the City's payment of Base Rent and Additional Rent is Subject to Appropriation and Certification as provided in the Facility Lease and nothing in the Facility Lease, the Certificates, the Trust Agreement, or any Hedge Agreement constitutes or shall constitute a pledge by the City, or an obligation of the City, of any taxes or other moneys to the payments due thereunder.

(f) Primary Offering Disclosure. If, in the judgment of the Director of Finance after consultation with the Original Purchaser, a disclosure document is appropriate relating to the initial offering of one or more series of Refunding Certificates, the Director of Finance, on behalf of the City and in that officer's official capacity, is authorized to (i) cooperate with the Original Purchaser in the preparation of, and the making of modifications, completions or changes of or supplements to, such a disclosure document, (ii) determine, and certify or otherwise represent when the disclosure document is to be deemed final or is final, (iii) authorize the use and distribution of that disclosure document and any supplements thereto in connection with the initial offering of the applicable series of Refunding Certificates, and (iv) sign certificates, statements or other documents in connection with the finality, accuracy and completeness of that disclosure document. The Director of Finance is authorized to contract for services for the production and distribution of any disclosure statements, including by printed and electronic means.

(g) Continuing Disclosure. If and to the extent required by Rule 15c2-12 promulgated by the Securities and Exchange Commission ("SEC") or by a Purchase Agreement in connection with the sale of one or more series of Refunding Certificates or by a remarketing agreement in connection with remarketed Certificates, then, for the benefit of the holders and beneficial owners

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from time to time of the Refunding Certificates, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of Securities and Exchange Commission Rule 15c2-12 (the “Rule”). For that purpose, the Director of Finance is authorized on behalf of the City to sign and deliver continuing disclosure agreements, approved as to form and correctness by the Director of Law, between the City and the Trustee. The Director of Finance is authorized to sign and deliver any related agreements, certificates and other instruments, and to establish procedures in order to ensure compliance by the City with its continuing disclosure agreements, including timely provision of information and notices as described above. 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.

(h) Application for Ratings. If, in the judgment of the Director of Finance, the filing of applications for one or more ratings on Refunding Certificates by one or more nationally-recognized rating agencies is necessary or desirable for marketing purposes, the Director of Finance is authorized to prepare and submit those applications, and to provide information as may be required in support of those applications for the purpose. The cost of obtaining each such rating, except to the extent paid by the Original Purchaser in accordance with the Purchase Agreement, shall be paid from the proceeds of the Refunding Certificates to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

(i) Application of Proceeds; Costs of Issuance. The proceeds from the sale of the Refunding Certificates shall be deposited and applied as provided in the Supplemental Indenture and for the purposes stated in this Ordinance and are appropriated for those purposes. Costs of issuing the Refunding Certificates that are not paid from those proceeds may be paid from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose, as determined by the Director of Finance.

Section 7. Sale of the Refunding Certificates; Purchase Agreements. The Director of Finance may sign and deliver one or more Purchase Agreements for Refunding Certificates setting forth the conditions for delivery of the Refunding Certificates that are consistent with this Ordinance and the Trust Agreement and that are determined by the Director of Finance, based on the written advice of a Financial Advisor, to be customary for lease certificates of participation issued by governmental entities, including, without limitation, representations as to the accuracy and completeness of information contained in the disclosure document described in Section 6 of this Ordinance. The Purchase Agreement shall provide for the sale of the applicable series of Refunding Certificates to the Original Purchaser selected by the Director of Finance and identified in the Purchase Agreement, based on an evaluation of the qualifications of firms that have proposed to underwrite the Refunding Certificates or the terms upon which the Original Purchaser has agreed to purchase the Refunding Certificates.

Each Purchase Agreement shall set forth the following, based on the written advice of a Financial Advisor, consistent with this Ordinance and the Trust Agreement:

- (a) the aggregate principal amount of Refunding Certificates issued;
- (b) the Purchase Price for the Refunding Certificates;
- (c) whether any Refunding Certificates are to be subject to optional redemption prior to maturity, and, if so, the earliest optional redemption date for those Refunding Certificates subject to prior redemption, which shall be not later than ten years from the first interest payment date of the applicable series, and the applicable redemption price, which shall be not greater than 102% of the principal amount redeemed;
- (d) the dates on which principal of the Refunding Certificates is to be paid, which shall be not later than thirty-five (35) years from their respective dates of issuance, with an identification of whether the payment is due by stated maturity or by mandatory sinking fund redemption of Refunding Certificates of a particular maturity;

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(e) the interest rates to be borne by Refunding Certificates bearing interest at a fixed rate, the weighted average of which shall not exceed six percent (6%) as to Refunding Certificates of any series, and the method by which the interest rate is to be determined for Refunding Certificates bearing interest at variable rates, consistent with Section 6;

(f) the particular Outstanding Certificates or portions thereof to be Refunded Certificates;

(g) the title and series designation for the Refunding Certificates;

(h) the amount, if any, and source of any money to be deposited in the Reserve Account in order to cause the balance therein to equal the Reserve Requirement, if and to the extent required by the applicable Supplemental Trust Agreement, and any determination as to whether there shall be a special reserve fund for the Refunding Certificates of any series, separate from the common Reserve Account, or a surety or insurance policy, bank letter or line of credit, or other form of credit or liquidity facility enhancing the security for Refunding Certificates of that series in lieu of a funded reserve fund;

(i) whether any Refunding Certificates are to be secured by or payable from a Credit Support Instrument.

In the event that the Director of Finance, based on the written advice of a Financial Advisor, determines that the City's best interests will be served by causing a series of Refunding Certificates to be Capital Appreciation Certificates, then the Director of Finance is authorized to so specify in the Purchase Agreement. If the Director of Finance so determines, then the authorizations and limitations in this Section 7 and Section 6 shall be interpreted and applied in a manner that the Director of Finance determines to be consistent with the character of Capital Appreciation Certificates.

It is determined that the terms of the Refunding Certificates and the corresponding terms of Base Rent as so determined within the limitations set forth in this Ordinance and as so specified and set forth in the Purchase Agreement will be in the best interest of the City and consistent with all legal requirements.

Section 8. Remarketing. In the event that the Director of Finance determines, based on the written advice of a Financial Advisor, that it is advantageous to the City to convert the interest on any Outstanding Certificates bearing interest at variable rates to fixed interest rates for a period of time or to maturity or to convert the interest on any Outstanding Certificates or Refunding Certificates to a different variable rate period or mode, or to terminate or take other actions with respect to any existing Credit Support Instrument that will require a tender and remarketing of any Outstanding Certificates under the Trust Agreement (such conversion or other actions and the tender and remarketing being collectively referred to in this Section as "remarketing"), the City shall undertake the remarketing of those Certificates in accordance with the Trust Agreement. In connection with any remarketing of Certificates, the Director of Finance is authorized to take such actions as the Director determines, based on the written advice of a Financial Advisor, will facilitate the remarketing of the Certificates or otherwise be in the best interests of the City, including without limitation, obtaining one or more Credit Support Instruments, terminating any Credit Support Instrument, and entering into agreements with one or more purchasers for their direct purchase of the remarketed Certificates in lieu of a public offering of the Refunding Certificates by a remarketing agent. In the event the Director of Finance determines that it is necessary in connection with the remarketing to supplement or amend the Facility Lease, the Ground Lease or the Trust Agreement in order to address current market conditions or to permit the use of or to terminate a Credit Support Instrument or to otherwise obtain financing arrangements advantageous to the City, the Mayor and the Director of Finance are authorized to sign and deliver a Supplemental Lease and a Supplemental Ground Lease and to signify approval of the Supplemental Trust Agreement, approved as to form and correctness by the Director of Law.

The Director of Finance is further authorized to satisfy any special reserve fund requirement for any series of Certificates then Outstanding under the Trust Agreement by the deposit of a Credit

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Support Instrument in lieu of cash, as permitted and more specifically provided in the Trust Agreement, and to apply cash released from such special reserve fund to the payment of costs of remarketing. To the extent the costs of remarketing are not paid from any cash released from such special reserve fund, those costs may be paid, as determined by the Director of Finance, from the proceeds of remarketing or from Fund Nos. 11 SF 600, 11 SF 601 and 01 SF 001 or from other money lawfully available and appropriated or to be appropriated for that purpose.

The Director of Finance is authorized to prepare one or more disclosure documents in connection with any remarketing under the same terms and conditions as set forth in Section 6 of this Ordinance with respect to the issuance of Refunding Certificates. The Director of Finance or other officer of the City, as appropriate under the Charter, is authorized to take such actions or cause to be taken such actions as are necessary to obtain and maintain the desired tax status of any Outstanding Certificates, and the covenants and authorizations in Section 10 of this Ordinance shall apply to any converted Certificates. The Director of Finance and other City officials, as appropriate under the Charter, are authorized to sign and deliver such instruments, certificates and documents as are necessary or appropriate to consummate the transactions authorized by this Section. The Director of Finance, the Director of Law and other City officials, as appropriate under the Charter, are authorized to make the necessary arrangements on behalf of the City to establish the date, location, procedure and conditions for the remarketing of Certificates and to take all actions necessary to effect the remarketing of Certificates under the terms of this Ordinance, the Facility Lease and the Trust Agreement. The Clerk of Council or other official of the City, as appropriate under the Charter, shall furnish the Trustee a true transcript of proceedings certified by the Clerk or other official, of all proceedings had with reference to the remarketing of Certificates along with such information for the records as is necessary to determine the validity of the remarketing.

Section 9. Authorization of Supplemental Ground Leases, Supplemental Leases and Supplemental Trust Agreements; Additional Documents. In connection with the issuance of any series of Refunding Certificates, the Mayor and the Director of Finance are authorized, in the name and on behalf of the City, to sign and deliver one or more Supplemental Leases and, if necessary or appropriate in connection with that issuance, one or more Supplemental Ground Leases, and to signify approval of one or more Supplemental Trust Agreements, approved as to form and correctness by the Director of Law, and not inconsistent with this Ordinance and the Purchase Agreement. The determination by those officers that a Supplemental Lease, Supplemental Ground Lease or Supplemental Trust Agreement is not inconsistent with this Ordinance shall be conclusively evidenced by the signing and delivery of that Supplemental Lease, Supplemental Ground Lease or Supplemental Trust Agreement by those officers. Subject to the Facility Lease as theretofore amended, any Supplemental Lease may contain amendments to the Facility Lease, as theretofore amended, and, subject to the Trust Agreement as theretofore amended, any Supplemental Trust Agreement may contain amendments to the Trust Agreement, as theretofore amended, to permit the City increased flexibility for the use of financial or credit structures and techniques determined by the Director of Finance, based on the written advice of a Financial Advisor, to be in the best interests of the City. The Director of Finance is authorized to sign and deliver a continuing covenant agreement or similar agreement with an Original Purchaser in connection with its direct purchase of Refunding Certificates in lieu of a public offering of Refunding Certificates, based on the written advice of a Financial Advisor that entering into such agreement is in the best interests of the City.

The Mayor, the Director of Finance, the Clerk, the Director of Law and other City officials, as appropriate under the Charter, are authorized to sign and deliver such instruments, certificates and documents as are necessary or appropriate to consummate the transactions authorized by this Ordinance, the Purchase Agreements, the Supplemental Ground Leases, the Supplemental Leases, the Supplemental Trust Agreements, the Ground Lease, the Facility Lease, the Trust Agreement, the escrow agreements and the Hedge Agreements.

The Mayor, the Director of Finance, the Director of Law and other City officials, as appropriate under the Charter, are authorized to make the necessary arrangements on behalf of the City to establish the date, location, procedure and conditions for the delivery of each series of Refunding Certificates to the Original Purchaser and to take all actions necessary to effect due

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signing, authentication and delivery of each series of Refunding Certificates under the terms of this Ordinance, the Supplemental Leases, the Supplemental Ground Leases, the Supplemental Trust Agreements, the Purchase Agreements and the Trust Agreement. The Clerk of Council or other official of the City, as appropriate under the Charter, shall furnish the Original Purchaser a true transcript of proceedings certified by the Clerk or other official, of all proceedings had with reference to the issuance of the Refunding Certificates along with such information for the records as is necessary to determine the regularity and validity of the issuance of the Refunding Certificates.

Section 10. Tax Covenants. Upon the determination of the Director of Finance, based on the written advice of a Financial Advisor, that it is to the financial advantage of the City and in the City's best interests that all or a portion of a series of Refunding Certificates or remarketed Certificates be issued or remarketed as obligations the interest on which is excluded from gross income for federal income tax purposes or as obligations that provide for federal tax credits to the holders or issuers thereof, the Director of Finance, as the fiscal officer, or any other officer having responsibility for the issuance of Refunding Certificates or remarketing of Certificates, is, alone or in conjunction with any of the foregoing or with any other officer or employee of the City, authorized to cooperate with the Original Purchaser or remarketing agent and the Trustee by making, on behalf of the City, such covenants and representations in the Facility Lease as are appropriate and necessary to achieve and maintain the desired tax treatment or status of the Facility Lease and the Certificates.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for the issuance of Refunding Certificates or remarketing of Certificates is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Facility Lease and the Certificates as the City is permitted to or required to make or give under the federal income tax laws for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Facility Lease and the Certificates or the interest components thereof or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the intended tax status of the Facility Lease and the Certificates, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript for the Certificates, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds from the sale of the Certificates, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax status of the Facility Lease and the Certificates.

The City hereby covenants it will take or cause to be taken such actions that may be required of it for the interest components of Base Rent and interest on the Certificates to achieve and maintain the intended treatment and status for federal income tax purposes and that it will not take or authorize to be taken any actions that would adversely affect that treatment and status.

Each covenant made pursuant to this Section with respect to a series of Certificates is also made with respect to all issues any portion of the principal of or interest on which is paid from proceeds of that series of Certificates (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure the tax status of the Certificates of that series, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Certificates of that series.

Section 11. 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 or to negotiate any Hedge Agreements. The Director of Finance may rely on the written advice of any Financial Advisor so retained. Any Financial Advisor or consultant employed under the authority

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of this Ordinance shall be disinterested in the transaction and be independent of the underwriters or counterparties and any other party interested in the transaction.

Section 12. Appointment of Successor Trustee. The Director of Finance is authorized to appoint a successor Trustee in the event that the current Trustee, U.S. Bank, National Association, shall resign or be removed, or be dissolved or otherwise become incapable of acting as Trustee under the Trust Agreement, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, in accordance with the Trust Agreement.

Section 13. Captions, Headings, and Section References. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs, or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 14. Interpretation. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Certificates or matters 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 bonds, certificates of indebtedness, other obligations, indentures, or other agreements or contracts made or entered into by the City.

Section 15. Validity. This Council finds and determines that this Ordinance was passed in compliance with all applicable provisions of the City's Charter and the rules of this Council.

Section 16. Severability. Each section of this Ordinance and each subdivision or paragraph of any section is hereby declared to be independent, and the finding or holding of any section or any subdivision or paragraph of any section to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this Ordinance.

Section 17. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 18. Sunset of Authorization. The authority granted by this Ordinance shall expire three years from the effective date of this Ordinance. If a Purchase Agreement for Refunding Certificates or agreement for the purchase of remarketed Certificates is entered into or a preliminary disclosure document is distributed with respect to Refunding Certificates or remarketed Certificates under the authority of this Ordinance at any time within the three-year period following its effective date, then the authority granted by this Ordinance shall not expire as to those Refunding Certificates or remarketed Certificates. The Director of Finance shall notify the Chairman of the Finance Committee and the Clerk of this Council of the initiation of the issuance of any Refunding Certificates or conversion and remarketing of Certificates under the authority of this Ordinance.

Section 19. Refinancing. This Council finds and determines that this is an Ordinance providing for the refinancing of bonds, notes or other securities of the City within the meaning of Section 64 of the City Charter.

Section 20. Emergency. 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.

DDR:nl
11-13-17
FOR: Director Dumas

