

ORDINANCE NO.:

37-2022

Adopted 4-25-2022  
ess. 4-25-2022

Passes 6 yes  
1 abstain

SPONSORED BY:

Cosponsored By

MAYOR MATTHEW A. BURKE

Vaughn, Johnson, Blake, Kelley, Donahue  
AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING DAVID KROCK, CITY ENGINEER, TO PREPARE THE NECESSARY PLANS AND SPECIFICATIONS, PER THE OHM ADVISORS PROPOSAL, AND TO GO OUT FOR COMPETITIVE BIDS, FOR THE ANTENUCCI SIDEWALK PHASE TWO, AND AUTHORIZING PAYMENT OF COSTS THRU FUNDING BY THE CUYAHOGA COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AND THE CITY OF GARFIELD HEIGHTS

WHEREAS, Garfield Heights Ordinance 59-2019 authorized the Mayor to apply for the funding of the Antenucci Sidewalk Phase Two Project, and

WHEREAS, the City had been awarded a Cuyahoga County Community Development Block Grant (CDBG) in the amount of \$150,000 with the City's cost share to be approximately \$65,000, and

WHEREAS, the purpose of this project is to enhance the Antenucci Boulevard area by improving safe neighborhood pedestrian transportation and potentially increase job growth and opportunity to the benefit of local citizens, and

WHEREAS, the City Engineer, David Krock, has prepared an estimate of the engineering, bidding, inspection, testing and construction costs attached here to as the Project Fact Sheet, and

WHEREAS, upon the opening and tabulation of the Public Bid process all construction bids received will be brought before the Board of Control for final approval.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GARFIELD HEIGHTS, OHIO, THAT:

SECTION 1. The City Engineer, David Krock, is hereby authorized and directed to prepare the necessary plans and specifications, per the OHM Advisors Proposal attached hereto as Exhibit "A", and to go out for competitive bids for the Antenucci Sidewalk Phase Two Project, and authorizing the payment of the costs for this project, which costs will be funded by the Cuyahoga County Community Development Block Grant and the City of Garfield Heights.

SECTION 2. Upon compilation and tabulation of the bids received for the project, the City Engineer, David Krock, shall present such tabulation to the Board of Control for approval of the required contracts.

SECTION 3. The Finance Director is hereby authorized and directed to issue her vouchers of the City for the purposes stated in Section 1. hereof, to OHM Advisors for the preparation of the plans, specifications and the public bidding costs of the project in an amount not to exceed \$16,200.00 dollars, and for construction administration, management, and inspection in an amount not to exceed \$18,800.00 dollars; and further to the awarded contractor(s) for the estimated construction costs associated with this project in the amount of \$180,000.00 upon the approval of the Board of Control, said vouchers to be charged to the appropriate fund.

**SECTION 4.** Council declares this Ordinance to be an emergency measure necessary for the preservation of the public health, safety and welfare; therefore, this Ordinance shall be in full force and effect immediately upon the adoption by Council and approval by the Mayor; otherwise from and after the earliest period allowed by law.

PASSED: 4-25-2022

APPROVED: Matthew A. Bl

MAYOR

Thom J. Vayh

PRESIDENT OF COUNCIL

ATTEST: Lottie O'neal

CLERK OF COUNCIL

EFFECTIVE DATE: 4-25-2022

ORDINANCE NO.: 38-2022

Adopted 4-25-2022  
PASSES 6 Yes  
1 Abstain  
eff. 4-25-2022

SPONSORED BY: MAYOR MATTHEW A. BURKE

Co-Sponsored

Blake, Seither, Vaughn, Donahue  
AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR OR HIS  
DESIGNEE TO APPLY FOR A GRANT AVAILABLE BY THE PATRICK  
LEAHY BULLETPROOF VEST PARTNERSHIP CREATED BY THE  
BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998 FOR THE  
GARFIELD HEIGHTS POLICE DEPARTMENT

WHEREAS, The Patrick Leahy Bulletproof Vest Partnership created by The Bulletproof Vest Partnership Grant Act of 1998 is a U.S. Department of Justice initiative created to provide resources to state and local government law enforcement; and

WHEREAS, the Bulletproof Vest Partnership Program has purchased approximately 1,441,013 vests for over 13,000 jurisdictions since 1999; and

WHEREAS, the City of Garfield Heights Police Department is requesting funding to contribute towards the purchase of 30 vests at a total estimated cost of \$30,000.00.

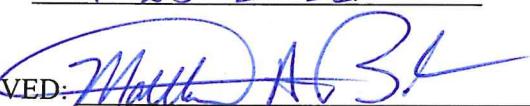
NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Garfield Heights, Ohio, that:

SECTION 1. The Mayor or his designee is hereby authorized and directed to apply for the above-mentioned grant program for the Garfield Heights Police Department.

SECTION 2. The Finance Director is hereby authorized and directed to issue her vouchers of the City, for the purpose set forth in Section 1. Hereof, said vouchers to be charged to the appropriate fund.

SECTION 3. Council declares this Ordinance to be an emergency measure necessary for the preservation of the public health, safety and welfare of the residents of the City of Garfield Heights and therefore, this Ordinance shall be in full force and effect immediately upon its adoption by the Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: 4-25-2022

APPROVED:   
Matthew A. Burke

MAYOR

  
Thomas J. Vachon  
PRESIDENT OF COUNCIL

ATTEST: Lottie Overly  
CLERK OF COUNCIL

EFFECTIVE DATE: 4-25-2022

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Passes 6 Yes  
1 abstain  
ess. 4-25-2022

SPONSORED BY:  
CO-SPONSOR:

MAYOR MATTHEW A. BURKE  
Vaughn, Blake, Donanve

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO RENEW AN AGREEMENT ON BEHALF OF THE CITY OF GARFIELD HEIGHTS WITH COURT COMMUNITY SERVICE

WHEREAS, Court Community Service provides supervised community service work crews to complete cleanup and landscaping projects throughout various cities, and

WHEREAS, the City of Garfield Heights would like to renew the agreement entered into last year with Court Community Service, and

WHEREAS, currently, the City's agreement with Court Community Service is set to expire in May 2022; this renewal will add one (1) additional year to the agreement, and

WHEREAS, the total cost of the contract will increase 3% this year due to inflation (an approximate increase of \$1800.00).

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

SECTION 1. The Mayor is hereby authorized and directed to enter into an agreement (attached hereto as Exhibit A and included as if fully written within) on behalf of the City of Garfield Heights with Court Community Service for a period of twelve months at a cost not to exceed \$79,160.00 to be invoiced and paid on a monthly basis.

SECTION 2. The Finance Director hereby authorized and directed to issue her vouchers for the City, to be charged to the appropriate fund for the purposes set forth in Section 1 hereof.

SECTION 3. Council declares this Ordinance to be an emergency measure necessary for the preservation of the public health, safety and welfare; therefore, this Ordinance shall be in full force and effect immediately upon the adoption of City Council and approval by the Mayor; otherwise from and after the earliest period allowed by law.

PASSED: 4-25-2022

APPROVED: Matthew A. Burke  
MAYOR

Thomas J. Vaughn  
PRESIDENT OF COUNCIL

ATTEST: Lottie Overly  
CLERK OF COUNCIL

EFFECTIVE DATE: 4-25-2022

Court Community Service  
Garfield Heights Work Crew Program 2022

This contract, made and executed in duplicate, by and between the Court Community Service (“CCS”), of 614 West Superior Ave. Suite 900 Cleveland, Ohio 44113 and the City of Garfield Heights (“CITY”), of 5407 Turney Rd. Garfield Heights, Ohio 44125, witnesseth:

Project Description:

CCS will provide CITY with a supervised community service work crew to implement cleanup and landscaping projects on public properties. The work crew may also perform property cleanups as ordered to by the Garfield Heights Municipal Court. In addition, the crew may also be assigned to perform snow shoveling on public properties.

Services Provided by CCS:

CCS will provide a Work Crew Supervisor and a crew of a minimum of three (3) community service workers four days per week excluding holidays. The project will provide CITY with a minimum of one hundred and ninety-two (192) days of service per year. CCS will provide transportation, tools, supplies, and equipment required for litter collection and basic landscaping projects. CCS will also provide personal safety equipment, insurance, and related administrative services.

CITY will provide CCS with secured parking for an equipment trailer and disposal services (dumpsters) for trash and debris collected. CITY will be responsible for the disposal of all trash and debris.

Option to Include Additional Work Days

When supervisors and crews are available, CCS will offer to CITY the opportunity to have court community service workers complete additional work days, bringing the weekly total up to five days. In the event CITY accepts on a given day, CCS will provide the same service to CITY on said days, and CITY will pay the same daily rate as a regular day.

Project Cost:

The cost of the project, without additional work days, for a period of twelve (12) months is \$62,520.00. CITY shall pay CCS in twelve (12) monthly payments of \$5,210.00. CCS shall submit a monthly invoice including a detailed report indicating the work performed during the month (listed by date of service) and summary statistics.

In the event CCS provides court community service workers on additional days, CCS will denote such days on the monthly invoice. CITY shall pay \$320.00 for each additional day worked by CCS.

Coordination with CITY:

CITY will provide the CCS Work Crew Supervisor with the locations and types of work to be performed at each location. CCS will contact the designated CITY liaison with any concerns or questions. A daily report will be provided to CITY outlining the work performed.

Effective Date:

The terms of this contract will go into effect immediately upon the conclusion of the original contract so as to ensure that there is no gap in service or payment.

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Paul Klodor, Executive Director of Court Community Service

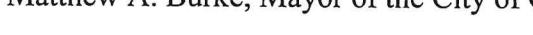
Date



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Matthew A. Burke, Mayor of the City of Garfield Heights

Date



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SPONSORED BY: MAYOR MATTHEW A. BURKE  
CO-Sponsor:  
vaughn, Blake, Donahue

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PASSED: 4-25-2022

APPROVED: Matthew A. Burke  
MAYOR

ATTEST: Lothie Overly  
CLERK OF COUNCIL

Thomas J. Vaughn  
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-25-2022

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Effective Date:

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Paul Klodor, Executive Director of Court Community Service      Date



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Matthew A. Burke, Mayor of the City of Garfield Heights      Date

ORDINANCE NO. 40-2022

SPONSORED BY: MAYOR MATTHEW BURKE

COSponsored By: Vaughn, Blake, Donahue

adopted 4-25-2022

Passes 6 Yes  
1 Abstain

eff 4-25-2022

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$2,600,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING STREETS AND ROADS IN THE CITY BY RESURFACING, GRADING, DRAINING, CURBING, PAVING, AND IMPROVING, RECONSTRUCTING AND CONSTRUCTING CATCH BASINS, AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 22-2015, passed on May 26, 2015, there were issued \$2,000,000 Special Obligation Income Tax Street Improvement Notes, Series 2015, in anticipation of income tax revenue bonds supported by the City Income Tax, including the Street Fund Restricted Receipts but less the Sewer Fund Restricted Receipts in excess of the portion of the improvement described in Section 1 that is related to the improvement, reconstruction and construction of catch basins (collectively, the Income Tax Receipts), for the purpose of constructing the improvement described in Section 1, which notes were retired at maturity with a portion of the proceeds of \$2,500,000 Special Obligation Income Tax Street Improvement Notes, Series 2016, issued in anticipation of income tax revenue bonds, as set forth above, pursuant to Ordinance No. 20-2016, passed on May 23, 2016, which notes were retired at maturity with a portion of the proceeds of \$2,400,000 Special Obligation Income Tax Street Improvement Notes, Series 2017 issued in anticipation of income tax revenue bonds, as set forth above, pursuant to Ordinance No. 24-2017, passed on May 22, 2017, which notes were retired at maturity with a portion of the proceeds of \$2,200,000 Special Obligation Income Tax Street Improvement Notes, Series 2018 issued in anticipation of income tax revenue bonds, as set forth above, pursuant to Ordinance No. 31-2018 passed on May 14, 2018, which notes were retired at maturity with proceeds of \$2,000,000 Street Improvement Notes, Series 2019, issued in anticipation of general obligation bonds, pursuant to Ordinance No. 25-2019, passed on May 13, 2019, which notes were retired at maturity with proceeds of \$3,000,000 Street Improvement Notes, Series 2020, issued in anticipation of general obligation bonds, pursuant to Ordinance No. 37-2020, passed on April 27, 2020, which notes were retired at maturity with proceeds of \$2,800,000 Street Improvement Notes, Series 2021, issued in anticipation of general obligation bonds, pursuant to Ordinance No. 41-2021, passed on April 26, 2021 (the Outstanding Notes), which Outstanding Notes will mature on June 16, 2022.

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the general obligation notes described in Section 3; and

WHEREAS, the Director of Finance as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is at least 12 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is June 23, 2035;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Garfield Heights, Cuyahoga County, Ohio, that:

Section 1. Authorized Principal Amount of Anticipated Bonds; Purpose. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$2,600,000 (the Bonds) to pay costs of improving streets and roads in the City by resurfacing, grading, draining, curbing, paving, and improving, reconstructing and constructing catch basins, and making other improvements as designated in the plans approved or to be approved by Council, together with all necessary appurtenances thereto.

Section 2. Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2023, shall bear interest at the now estimated rate of 5.50% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 12 annual principal installments on December 1 of each year that are substantially equal. The first principal installment is estimated to be December 1, 2024, and the first interest payment is estimated to be December 1, 2023.

Section 3. Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in an aggregate principal amount not to exceed \$2,600,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Notes. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes signed in accordance with Section 6 of this ordinance (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5.00% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity or at any date of earlier prepayment as provided for in Section 4 and until the principal amount is paid or payment is provided for. The principal amount of and rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

Section 4. Payment of Debt Charges; Paying Agent; Prepayment. The debt charges on the Notes shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America as determined by the Director of Finance in the Certificate of Award and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the designated corporate trust office or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent). If agreed to by the Original Purchaser, the Notes shall be prepayable without penalty or premium at the option of the City at any time prior to maturity (the Prepayment Date) as provided in this ordinance. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the Prepayment Date. The City's right of prepayment shall be

exercised by mailing a notice of prepayment, stating the Prepayment Date and the name and address of the Paying Agent, by certified or registered mail to the Original Purchaser and to the Paying Agent not less than seven days prior to the Prepayment Date, unless that notice is waived by the Original Purchaser and the Paying Agent. If money for prepayment is on deposit with the Paying Agent on the Prepayment Date following the giving of that notice (unless the requirement of that notice is waived as stated above), interest on the principal amount prepaid shall cease to accrue on the Prepayment Date, and upon the request of the Director of Finance the Original Purchaser of the Notes shall arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment, surrender and cancellation.

**Section 5. Form and Execution of Notes; Book Entry System.** The Notes shall be signed by the Mayor and the Director of Finance in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance. As used in this section and this ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

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

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

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

If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the Director of Finance may attempt to establish a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

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

Section 6. Award and Sale of the Notes.

(a) To the Original Purchaser. The Notes shall be sold at not less than par plus accrued interest to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this ordinance and the Note Purchase Agreement (as defined below). The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed 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. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

(b) Note Purchase Agreement. If the Director of Finance and the Original Purchaser determine to use a Note Purchase Agreement, then the Mayor and the Director of Finance may sign and deliver, in the name and on behalf of the City, the Note Purchase Agreement between the City and the Original Purchaser (the Note Purchase Agreement), in substantially the form as is now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Notes. The Note Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Purchase Agreement or amendments thereto.

(c) Application for Rating; Financing Costs. The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

(d) Ohio Market Access Program. If the Director of Finance determines in the Certificate of Award for it to be in the best interest of and financially advantageous to the City, the City shall participate in the Treasurer of State's Ohio Market Access Program.

The Standby Note Purchase Agreement (Standby Note Purchase Agreement) and Paying Agent Agreement (Paying Agent Agreement) are hereby authorized in the forms as are now on file with the Clerk of Council with such changes not materially adverse to the City as may be approved by the officers of the City executing the Standby Note Purchase Agreement and Paying Agent Agreement. The City acknowledges the agreement of the Treasurer of State in the Standby Note Purchase Agreement that, in the event the City is unable to repay the principal amount and accrued and unpaid interest of the Notes at their maturity, whether through its own funds or through the issuance of other obligations of the City, the Treasurer of State agrees (A) to purchase the Notes from the holders or beneficial owners thereof upon their presentation to the Treasurer of State for such purchase at a price of par plus accrued interest to maturity or (B) to purchase renewal notes of the City in a principal amount not greater than the principal amount of the Notes plus interest due at maturity, with such renewal notes bearing interest at the Renewal Note Rate (as defined in the Standby Note Purchase Agreement), maturing not more than one year after the date of their issuance, and being prepayable at any time with 30 days' notice, provided that in connection with the Treasurer of State's purchase of such renewal notes the City shall deliver to the Treasurer of State an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the City, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes, within the 8.3-mill limitation provided by the Charter of the City, on all property subject to ad valorem taxes levied by the City and (ii) interest on the renewal notes is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code, as amended, to the same extent that interest on the Notes is so excluded.

The officers signing the Notes are authorized to take all actions that may in their judgment reasonably be necessary to provide for the Standby Note Purchase Agreement, including but not limited to the inclusion of a notation on the form of the Notes providing notice to the holders or beneficial owners of the existence of the Standby Note Purchase Agreement and providing instructions to such holders or beneficial owners regarding the presentation of the Note for purchase by the Treasurer of State at stated maturity.

Section 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the 8.3-mill limitation provided by the Charter of the City, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the

same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year to the extent money from the municipal income tax is available for the payment of the debt charges on the Notes or Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated in compliance with the covenant hereinafter set forth. To the extent necessary, the debt charges on the Notes or Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and laws of the State of Ohio and ordinances of the City, and the City covenants, subject and pursuant to such authority, including particularly Revised Code Sections 133.05(B)(7) and 5705.51(A)(5) and (D), to appropriate annually from those municipal income taxes such amount as is necessary to meet such annual debt charges. Nothing in this Section in any way diminishes the pledge of the full faith and credit and property taxing power of the City to the prompt payment of the debt charges on the Notes or Bonds.

**Section 10. Federal Tax Considerations.** The City covenants that it will use, and will restrict the use and investment, of the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute arbitrage bonds, private activity bonds or hedge bonds under Sections 141, 148 or 149 of Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation or treatment of the Notes as "qualified tax-exempt obligations"), choice, consent, approval, or waiver on behalf of the City with respect to the 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 provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

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

Section 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

Section 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the principal of and interest on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 13. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 14. Retention of Municipal Advisor. The City retains MAS Financial Advisory Services, LLC to provide financial advisory services as the City's "municipal advisor" as that term is defined in Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") relating to the authorization, structuring, sale, issuance and delivery by the City of the Notes. Those municipal advisory services shall be rendered to the City by MAS Financial Advisory Services, LLC in compliance with the Dodd-Frank Act, the rules and regulations promulgated thereunder and in accordance with the form of agreement between the City and MAS Financial Advisory Services, LLC which form of agreement is currently on file with the Clerk of Council (the "Advisory Agreement"). The Mayor, the Director of Finance and/or the Director of Law are each hereby authorized to execute and deliver the agreement between the City and MAS Financial Advisory Services, LLC, with such changes to the form of agreement currently on file with the Clerk of Council that are not materially adverse to the City with the execution by such City officials being conclusive evidence that any such changes are not materially adverse to the City. MAS Financial Advisory Services, LLC shall provide those municipal advisory services as an independent contractor in accordance with the Dodd-Frank Act and the rules and regulations promulgated thereunder. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Advisory Agreement from the proceeds of the Notes to the extent

available and then from other moneys lawfully available and appropriated or to be appropriated for that purpose.

Section 15. 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 in compliance with the law.

Section 16. Captions and Headings. 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 17. Declaration of Emergency; Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective so that the Notes can be sold and issued at the earliest possible date, which is necessary to enable the City to retire the Outstanding Notes and thereby preserve its credit; this Ordinance shall be in full force and effect at the earliest time permitted by law following its passage and approval by the Mayor.

PASSED: 4-25-2022

APPROVED: Matthew A. Bick

Thor J. Vank  
PRESIDENT OF COUNCIL

ATTEST: Lottie Overly EFFECTIVE DATE: 4-25-2022

## FISCAL OFFICER'S CERTIFICATE

To the Council of the City of Garfield Heights, Ohio:

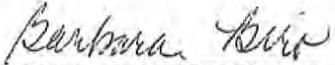
As fiscal officer of the City of Garfield Heights, Ohio, I certify in connection with your proposed issue of not to exceed \$2,600,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), to pay costs of improving streets and roads in the City by resurfacing, grading, draining, curbing, paving, and improving, reconstructing and constructing catch basins, and making other improvements as designated in the plans approved or to be approved by Council, together with all necessary appurtenances thereto (collectively, the improvement):

1. The estimated life or period of usefulness of the improvement is at least five years.

2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is at least 15 years, being my estimate of the life or period of usefulness of the improvement. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds; thus, the maximum maturity of the Bonds is 12 years.

3. The maximum maturity of the Notes is June 23, 2035, which is 20 years from June 23, 2015, the date of issuance of the original notes issued for this purpose.

Dated: April 25, 2022



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Director of Finance  
City of Garfield Heights, Ohio

ORDINANCE NO. 41-2022

Adopted 4-25-2022  
passes 6 yes  
1 abstain

SPONSORED BY: MAYOR MATTHEW BURKE

*Cosponsored By: Vaughn, Blake, Donahue*

eff 4-25-2022

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$250,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING STREETS AND ROADS IN THE CITY BY RESURFACING, GRADING, DRAINING, CURBING, PAVING, AND IMPROVING, RECONSTRUCTING AND CONSTRUCTING CATCH BASINS, AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, the Director of Finance as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 15 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is 240 months from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Garfield Heights, Cuyahoga County, Ohio, that:

Section 1. Authorized Principal Amount of Anticipated Bonds; Purpose. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$250,000 (the Bonds) to pay costs of improving streets and roads in the City by resurfacing, grading, draining, curbing, paving, and improving, reconstructing and constructing catch basins, and making other improvements as designated in the plans approved or to be approved by Council, together with all necessary appurtenances thereto.

Section 2. Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2023, shall bear interest at the now estimated rate of 5.50% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments on December 1 of each year that are substantially equal. The first principal installment is estimated to be December 1, 2024, and the first interest payment is estimated to be December 1, 2023.

Section 3. Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in an aggregate principal amount not to exceed \$250,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds for the purpose stated in Section 1. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes signed in accordance with Section 6 of this ordinance (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5.00% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity or at any date of earlier prepayment as provided for in

Section 4 and until the principal amount is paid or payment is provided for. The principal amount of and rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

Section 4. Payment of Debt Charges; Paying Agent; Prepayment. The debt charges on the Notes shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America as determined by the Director of Finance in the Certificate of Award and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the designated corporate trust office or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent). If agreed to by the Original Purchaser, the Notes shall be prepayable without penalty or premium at the option of the City at any time prior to maturity (the Prepayment Date) as provided in this ordinance. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the Prepayment Date. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the Prepayment Date and the name and address of the Paying Agent, by certified or registered mail to the Original Purchaser and to the Paying Agent not less than seven days prior to the Prepayment Date, unless that notice is waived by the Original Purchaser and the Paying Agent. If money for prepayment is on deposit with the Paying Agent on the Prepayment Date following the giving of that notice (unless the requirement of that notice is waived as stated above), interest on the principal amount prepaid shall cease to accrue on the Prepayment Date, and upon the request of the Director of Finance the Original Purchaser of the Notes shall arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment, surrender and cancellation.

Section 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance. As used in this section and this ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers

of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

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

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

If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the Director of Finance may attempt to establish a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

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

#### Section 6. Award and Sale of the Notes.

(a) To the Original Purchaser. The Notes shall be sold at not less than par plus accrued interest to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this ordinance and the Note Purchase Agreement (as defined below). The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed 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. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

(b) Note Purchase Agreement. If the Director of Finance and the Original Purchaser determine to use a Note Purchase Agreement, then the Mayor and the Director of Finance may

sign and deliver, in the name and on behalf of the City, the Note Purchase Agreement between the City and the Original Purchaser (the Note Purchase Agreement), in substantially the form as is now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Notes. The Note Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Purchase Agreement or amendments thereto.

(c) Application for Rating; Financing Costs. The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

(d) Ohio Market Access Program. If the Director of Finance determines in the Certificate of Award for it to be in the best interest of and financially advantageous to the City, the City shall participate in the Treasurer of State's Ohio Market Access Program.

The Standby Note Purchase Agreement (Standby Note Purchase Agreement) and Paying Agent Agreement (Paying Agent Agreement) are hereby authorized in the forms as are now on file with the Clerk of Council with such changes not materially adverse to the City as may be approved by the officers of the City executing the Standby Note Purchase Agreement and Paying Agent Agreement. The City acknowledges the agreement of the Treasurer of State in the Standby Note Purchase Agreement that, in the event the City is unable to repay the principal amount and accrued and unpaid interest of the Notes at their maturity, whether through its own funds or through the issuance of other obligations of the City, the Treasurer of State agrees (A) to purchase the Notes from the holders or beneficial owners thereof upon their presentation to the Treasurer of State for such purchase at a price of par plus accrued interest to maturity or (B) to purchase renewal notes of the City in a principal amount not greater than the principal amount of the Notes plus interest due at maturity, with such renewal notes bearing interest at the Renewal Note Rate (as defined in the Standby Note Purchase Agreement), maturing not more than one year after the date of their issuance, and being prepayable at any time with 30 days' notice, provided that in connection with the Treasurer of State's purchase of such renewal notes the City shall deliver to the Treasurer of State an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the City, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes, within the 8.3-mill limitation provided by the Charter of the City, on all property subject to ad valorem taxes levied by the City and (ii) interest on the renewal notes is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code, as amended, to the same extent that interest on the Notes is so excluded.

The officers signing the Notes are authorized to take all actions that may in their judgment reasonably be necessary to provide for the Standby Note Purchase Agreement, including but not limited to the inclusion of a notation on the form of the Notes providing notice to the holders or beneficial owners of the existence of the Standby Note Purchase Agreement and providing instructions to such holders or beneficial owners regarding the presentation of the Note for purchase by the Treasurer of State at stated maturity.

Section 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the 8.3-mill limitation provided by the Charter of the City, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year to the extent money from the municipal income tax is available for the payment of the debt charges on the Notes or Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated in compliance with the covenant hereinafter set forth. To the extent necessary, the debt charges on the Notes or Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and laws of the State of Ohio and ordinances of the City, and the City covenants, subject and pursuant to such authority, including particularly Revised Code Sections 133.05(B)(7) and 5705.51(A)(5) and (D), to appropriate annually from those municipal income taxes such amount as is necessary to meet such annual debt charges. Nothing in this Section in any way diminishes the pledge of the full faith and credit and property taxing power of the City to the prompt payment of the debt charges on the Notes or Bonds.

Section 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment, of the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute arbitrage bonds, private activity bonds or hedge bonds under Sections 141, 148 or 149 of Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election,

selection, designation (including specifically designation of the Notes as "qualified tax-exempt obligations"), choice, consent, approval, or waiver on behalf of the City with respect to the 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 provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

**Section 11. Certification and Delivery of Ordinance.** The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

**Section 12. Satisfaction of Conditions for Note Issuance.** This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the principal of and interest on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13. Retention of Bond Counsel.** The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

**Section 14. Retention of Municipal Advisor.** The City retains MAS Financial Advisory Services, LLC to provide financial advisory services as the City's "municipal advisor" as that term is defined in Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") relating to the authorization, structuring, sale, issuance and delivery by the City of the Notes. Those municipal advisory services shall be rendered to the City by MAS Financial Advisory Services, LLC in compliance with the Dodd-Frank Act, the rules and regulations promulgated thereunder and in accordance with the form of agreement between the City and MAS

Financial Advisory Services, LLC which form of agreement is currently on file with the Clerk of Council (the "Advisory Agreement"). The Mayor, the Director of Finance and/or the Director of Law are each hereby authorized to execute and deliver the agreement between the City and MAS Financial Advisory Services, LLC, with such changes to the form of agreement currently on file with the Clerk of Council that are not materially adverse to the City with the execution by such City officials being conclusive evidence that any such changes are not materially adverse to the City. MAS Financial Advisory Services, LLC shall provide those municipal advisory services as an independent contractor in accordance with the Dodd-Frank Act and the rules and regulations promulgated thereunder. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Advisory Agreement from the proceeds of the Notes to the extent available and then from other moneys lawfully available and appropriated or to be appropriated for that purpose.

Section 15. 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 in compliance with the law.

Section 16. Captions and Headings. 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 17. Declaration of Emergency; Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective so that the Notes can be sold and issued at the earliest possible date, which is necessary to enable the City to timely coordinate the sale of the Notes with other securities of the City and to facilitate the timely execution of one or more contracts for the improvement, which is needed to eliminate existing and potential hazards to vehicular and pedestrian traffic in the City; this Ordinance shall be in full force and effect at the earliest time permitted by law following its passage and approval by the Mayor.

PASSED: 4-25-2022

APPROVED: Matthew B.

Thomas M. Wang  
PRESIDENT OF COUNCIL

ATTEST: Dottie O'neill

EFFECTIVE DATE: 4-25-2022

## FISCAL OFFICER'S CERTIFICATE

To the Council of the City of Garfield Heights, Ohio:

As fiscal officer of the City of Garfield Heights, Ohio, I certify in connection with your proposed issue of not to exceed \$250,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), to pay costs of improving streets and roads in the City by resurfacing, grading, draining, curbing, paving, and improving, reconstructing and constructing catch basins, and making other improvements as designated in the plans approved or to be approved by Council, together with all necessary appurtenances thereto (collectively, the improvement):

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 15 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 240 months from their date of issuance.

Dated: April 25, 2022



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Barbara Bier  
Director of Finance  
City of Garfield Heights, Ohio

ORDINANCE NO. 42-2022

SPONSORED BY: MAYOR MATTHEW BURKE

COS Sponsored By: Vaughn, Blake, Donahue

adopted 4-25-2022  
passes 6 yes  
1 abstain

eff. 4-25-2022

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$750,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF CONSTRUCTING AND RECONSTRUCTING STREETS, SIDEWALKS, WATER LINES AND RELATED WATER SUPPLY FACILITIES, SANITARY SEWERS AND RELATED SANITARY FACILITIES, STORM SEWERS, AND CATCH BASINS AND RELATED DRAINAGE FACILITIES, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, the Director of Finance as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 20 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is 240 months from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Garfield Heights, Cuyahoga County, Ohio, that:

Section 1. Authorized Principal Amount of Anticipated Bonds; Purpose. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$750,000 (the Bonds) to pay costs of constructing and reconstructing streets, sidewalks, water lines and related water supply facilities, sanitary sewers and related sanitary facilities, storm sewers, and catch basins and related drainage facilities, together with all necessary appurtenances thereto.

Section 2. Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2023, shall bear interest at the now estimated rate of 5.50% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 20 annual principal installments on December 1 of each year that are substantially equal. The first principal installment is estimated to be December 1, 2024, and the first interest payment is estimated to be December 1, 2023.

Section 3. Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in an aggregate principal amount not to exceed \$750,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds for the purpose stated in Section 1. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes signed in accordance with Section 6 of this ordinance (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5.00% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity or at any date of earlier prepayment as provided for in Section 4 and until the principal amount is paid or payment is provided for. The principal amount of

and rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

**Section 4. Payment of Debt Charges; Paying Agent; Prepayment.** The debt charges on the Notes shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America as determined by the Director of Finance in the Certificate of Award and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the designated corporate trust office or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent). If agreed to by the Original Purchaser, the Notes shall be prepayable without penalty or premium at the option of the City at any time prior to maturity (the Prepayment Date) as provided in this ordinance. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the Prepayment Date. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the Prepayment Date and the name and address of the Paying Agent, by certified or registered mail to the Original Purchaser and to the Paying Agent not less than seven days prior to the Prepayment Date, unless that notice is waived by the Original Purchaser and the Paying Agent. If money for prepayment is on deposit with the Paying Agent on the Prepayment Date following the giving of that notice (unless the requirement of that notice is waived as stated above), interest on the principal amount prepaid shall cease to accrue on the Prepayment Date, and upon the request of the Director of Finance the Original Purchaser of the Notes shall arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment, surrender and cancellation.

**Section 5. Form and Execution of Notes; Book Entry System.** The Notes shall be signed by the Mayor and the Director of Finance in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance. As used in this section and this ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

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

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

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

If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the Director of Finance may attempt to establish a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

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

#### Section 6. Award and Sale of the Notes.

(a) To the Original Purchaser. The Notes shall be sold at not less than par plus accrued interest to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this ordinance and the Note Purchase Agreement (as defined below). The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed 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. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

(b) Note Purchase Agreement. If the Director of Finance and the Original Purchaser determine to use a Note Purchase Agreement, then the Mayor and the Director of Finance may sign and deliver, in the name and on behalf of the City, the Note Purchase Agreement between the City and the Original Purchaser (the Note Purchase Agreement), in substantially the form as is

now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Notes. The Note Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Purchase Agreement or amendments thereto.

(c) Application for Rating; Financing Costs. The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

(d) Ohio Market Access Program. If the Director of Finance determines in the Certificate of Award for it to be in the best interest of and financially advantageous to the City, the City shall participate in the Treasurer of State's Ohio Market Access Program.

The Standby Note Purchase Agreement (Standby Note Purchase Agreement) and Paying Agent Agreement (Paying Agent Agreement) are hereby authorized in the forms as are now on file with the Clerk of Council with such changes not materially adverse to the City as may be approved by the officers of the City executing the Standby Note Purchase Agreement and Paying Agent Agreement. The City acknowledges the agreement of the Treasurer of State in the Standby Note Purchase Agreement that, in the event the City is unable to repay the principal amount and accrued and unpaid interest of the Notes at their maturity, whether through its own funds or through the issuance of other obligations of the City, the Treasurer of State agrees (A) to purchase the Notes from the holders or beneficial owners thereof upon their presentation to the Treasurer of State for such purchase at a price of par plus accrued interest to maturity or (B) to purchase renewal notes of the City in a principal amount not greater than the principal amount of the Notes plus interest due at maturity, with such renewal notes bearing interest at the Renewal Note Rate (as defined in the Standby Note Purchase Agreement), maturing not more than one year after the date of their issuance, and being prepayable at any time with 30 days' notice, provided that in connection with the Treasurer of State's purchase of such renewal notes the City shall deliver to the Treasurer of State an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the City, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes, within the 8.3-mill limitation provided by the Charter of the City, on all property subject to ad valorem taxes levied by the City and (ii) interest on the renewal notes is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code, as amended, to the same extent that interest on the Notes is so excluded.

The officers signing the Notes are authorized to take all actions that may in their judgment reasonably be necessary to provide for the Standby Note Purchase Agreement, including but not limited to the inclusion of a notation on the form of the Notes providing notice to the holders or beneficial owners of the existence of the Standby Note Purchase Agreement and providing instructions to such holders or beneficial owners regarding the presentation of the Note for purchase by the Treasurer of State at stated maturity.

Section 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the 8.3-mill limitation provided by the Charter of the City, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year to the extent money from the municipal income tax is available for the payment of the debt charges on the Notes or Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated in compliance with the covenant hereinafter set forth. To the extent necessary, the debt charges on the Notes or Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and laws of the State of Ohio and ordinances of the City, and the City covenants, subject and pursuant to such authority, including particularly Revised Code Sections 133.05(B)(7) and 5705.51(A)(5) and (D), to appropriate annually from those municipal income taxes such amount as is necessary to meet such annual debt charges. Nothing in this Section in any way diminishes the pledge of the full faith and credit and property taxing power of the City to the prompt payment of the debt charges on the Notes or Bonds.

Section 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment, of the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute arbitrage bonds, private activity bonds or hedge bonds under Sections 141, 148 or 149 of Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as "qualified tax-exempt

obligations"), choice, consent, approval, or waiver on behalf of the City with respect to the 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 provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

**Section 11. Certification and Delivery of Ordinance.** The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

**Section 12. Satisfaction of Conditions for Note Issuance.** This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the principal of and interest on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13. Retention of Bond Counsel.** The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

**Section 14. Retention of Municipal Advisor.** The City retains MAS Financial Advisory Services, LLC to provide financial advisory services as the City's "municipal advisor" as that term is defined in Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") relating to the authorization, structuring, sale, issuance and delivery by the City of the Notes. Those municipal advisory services shall be rendered to the City by MAS Financial Advisory Services, LLC in compliance with the Dodd-Frank Act, the rules and regulations promulgated thereunder and in accordance with the form of agreement between the City and MAS Financial Advisory Services, LLC which form of agreement is currently on file with the Clerk of

Council (the "Advisory Agreement"). The Mayor, the Director of Finance and/or the Director of Law are each hereby authorized to execute and deliver the agreement between the City and MAS Financial Advisory Services, LLC, with such changes to the form of agreement currently on file with the Clerk of Council that are not materially adverse to the City with the execution by such City officials being conclusive evidence that any such changes are not materially adverse to the City. MAS Financial Advisory Services, LLC shall provide those municipal advisory services as an independent contractor in accordance with the Dodd-Frank Act and the rules and regulations promulgated thereunder. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Advisory Agreement from the proceeds of the Notes to the extent available and then from other moneys lawfully available and appropriated or to be appropriated for that purpose.

Section 15. 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 in compliance with the law.

Section 16. Captions and Headings. 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 17. Declaration of Emergency; Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective so that the Notes can be sold and issued at the earliest possible date, which is necessary to enable the City to timely coordinate the sale of the Notes with other securities of the City and to facilitate the timely execution of one or more contracts for the improvement, which is needed to eliminate existing and potential hazards to vehicular and pedestrian traffic in the City in conjunction with utility improvements; this Ordinance shall be in full force and effect at the earliest time permitted by law following its passage and approval by the Mayor.

PASSED: 4-25-2022

APPROVED: Matthew A. Bla

Thomas W. Vayh  
PRESIDENT OF COUNCIL

ATTEST: Gottlie Oweely

EFFECTIVE DATE: 4-25-2022

## FISCAL OFFICER'S CERTIFICATE

To the Council of the City of Garfield Heights, Ohio:

As fiscal officer of the City of Garfield Heights, Ohio, I certify in connection with your proposed issue of not to exceed \$750,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), to pay costs of constructing and reconstructing streets, sidewalks, water lines and related water supply facilities, sanitary sewers and related sanitary facilities, storm sewers, and catch basins and related drainage facilities, together with all necessary appurtenances thereto (collectively, the improvement):

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 20 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 240 months from their date of issuance.

Dated: April 25, 2022



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Anna Brue  
Director of Finance  
City of Garfield Heights, Ohio



# The City of Garfield Heights

5407 TURNER ROAD • GARFIELD HEIGHTS, OHIO 44125 • PHONE 216/475-1504  
FAX 216/475-3807

## PROJECT FACT SHEET

**Name:** Antenucci Sidewalk Phase 2

<b>Limits:</b>	<b>PHASE LOCATION</b>	<b>FROM</b>	<b>TO</b>	<b>LENGTH</b>
	Antenucci	Transportation	Infinity Building	1100 Lf

**Scope:** The purpose of this project is providing a safe place for pedestrians to walk along Antenucci.

<b>Costs:</b>	\$ 180,000	Construction
	\$ 16,200	Engineering Design
	<u>\$ 18,800</u>	Inspection Testing
	\$ 215,000	Total Project Cost

<b>Funding:</b>	\$ 150,000	CDBG
	<u>\$ 65,000</u>	Garfield Heights
	\$ 215,000	Total Project Funding

<b>Schedule:</b>	May 2022 - June 2022	Engineering Design Complete
	July 2022	Bid Award
	August 2022 - September 2022	Construction

**Other:** Traffic will be maintained for Local Traffic.

Questions?

David G. Krock, PE, City Engineer // City Hall: 216.475.1504 // Mobile: 330.350.0521 // [david.krock@ohm-advisors.com](mailto:david.krock@ohm-advisors.com)

April 15, 2022

Mayor Matthew Burke  
City of Garfield Heights  
5407 Turney Road  
Garfield Heights, OH 44125

**RE: Antenucci Sidewalk – Phase II**  
Location: Garfield Heights  
Proposal #20371

Dear Mayor Burke:

The following scope of services, price proposal, and project schedule which represent our understanding of the project, based upon prior discussions, meetings, and/or additional project information made available at the time of this proposal. Should you have any questions, please let us know.

#### Proposal Outline

Proposal Outline .....	1
Project Understanding .....	2
Scope of Services – Engineering Tasks .....	2
Scope of Services - Bidding and Award Tasks .....	3
Scope of Services – Construction Tasks .....	4
Price Proposal .....	6
Anticipated Project Schedule .....	6
Clarifications and Assumptions .....	7
Client Responsibilities .....	7
Standard Terms & Conditions .....	7

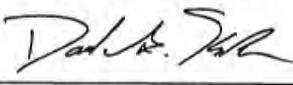
Sincerely,  
OHM Advisors

  
Chad M. Lewis, PE, Project Manager  
Chad.lewis@ohm-advisors.com  
D: 216.865.1345 C: 216.644.3987

Authorization to Proceed

  
Signature

Date

  
Printed Name

Title

David G. Krock, PE  
Vice President Ohio  
David.krock@ohm-advisors.com  
D: 330.913.1045 C: 330.350.0521

## Project Understanding

The referenced project will install sidewalk along Antenucci Boulevard from the western limit of Phase I to Transportation Boulevard, approximately 1,400 lineal feet.

## Scope of Services – Engineering Tasks

### Task #56 Pre-Design and Field Analysis

- The following services are included in the fee shown:
  - Analysis
    - The engineer shall utilize the field review to verify conditions for construction, maintaining traffic, repair/replacement effort, and to make notations of specific areas of concern and caution for the contractor.
  - Recommendation
    - The engineer will provide limits and type of work to be performed on designated streets along with associated construction estimates to aid in project decision making.

### Task #59 Design Development

- The following services are included in the fee shown:
  - Design Development of sidewalk installation
    - Plan and Profile Design
    - Cross Section Design
    - Maintenance of Traffic Design
      - Preparation of lane use details
      - Preparation of local detours and signage
      - Preparation of local access details
      - Preparation of plan sheets showing MOT plan
  - Preparation of Design Development level construction cost estimate
  - Coordination of DD level plans with public agencies, including:
    - City of Garfield Heights
    - CEI First Energy
    - Cuyahoga County Department of Public Works
    - Cleveland Water Department
    - AT&T
    - DEO
  - Submittal of Design Development Plans to private utility companies for further coordination of impacts/conflicts with their facilities for purposes of relocation.

#### **Task #60 Construction Documents**

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- The following services are included in the fee shown:
  - Preparation of Construction Documents shall be as follows:
    - Title Sheet
    - Legend Sheet
    - Schematic Plan
    - Typical Section
    - General Notes & Specifications
    - Maintenance of Traffic Plan & Details
    - General Summary
    - Plan & Profile Sheets
    - Cross Section Sheets
    - Drive Detail Sheets
    - Construction Details
    - Cuyahoga County & NEORSD Sewer Detail Sheets, as applicable
    - SWPPP Site Plan
  - Design will include all details and specifications required for public bidding of a unit price contract, in accordance with industry standards.
  - Coordination and approval of Final Construction plans with public agencies, including:
    - City of Garfield Heights
    - CEI First Energy
    - Cuyahoga County Department of Public Works
    - Cleveland Water Department
    - AT&T
    - DEO
  - Submittal of Final Construction plans to Private Utility Companies for follow-up and final coordination of impacts/conflicts with their facilities for purposes of relocation.

#### **Task #90 Official Engineer's Project Cost Estimate**

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- The following services are included in the fee shown:
  - Determination of estimated quantities for construction
  - Evaluation and estimate of construction costs for use with public bidding requirements

#### **Scope of Services - Bidding and Award Tasks**

#### **Task #151 Bidding & Contract Documents**

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- The following services are included in the fee shown:
  - Preparation of bid documents including legal advertisement, instructions to bidders, bid forms, contract forms and affidavits, prevailing wage forms, EEO forms, scope of work, schedule, and other Owner forms and requirements to be added to the public bidding process.
  - These documents will be 100% complete, ready for bidding of the Public Project.
  - Bid books will be made available for purchasing by bidders

#### **Task #152 Bid Process, Review, & Award**

- The following services are included in the fee shown:
  - Addendums/Clarifications
    - This activity is necessary to provide written explanation to all bidders for any questions regarding the bid documents and plans.
    - Depending upon the size and complexity of the project, multiple addendums/clarifications may be required for the project.
    - OHM will prepare addendums/clarifications and any necessary supporting documents and distribute to plan holders.
  - Post-Bid Activities
    - Evaluation of bids and contractor qualifications
    - Pre-Award Meeting to review all bid items with apparent low bidder
    - Recommendation of Award to the Owner
  - Contract Documents
    - OHM will prepare (3) three copies of contract documents for execution, bonding, insurance, etc.
    - OHM will prepare the notice of commencement for signature(s)

#### **Scope of Services – Construction Tasks**

##### **Task #175 Pre-Construction Services**

- The following services are included in the fee shown:
  - Obtain signatures on work agreements
  - Pre-construction meeting
  - Coordination with Contractor, Utilities, Safety Forces, Residents, and Businesses
  - Personnel coordination and project schedule
  - Perform materials, suppliers, and shop drawing reviews and communicate revisions/approvals with contractor
  - Review contractual items
  - Distribution of documents/information (meeting records)

##### **Task #176 Construction Services**

- The following services are included in the fee shown:
  - Coordination with Contractor, Utilities, Safety Forces, Residents, and Businesses
  - Prepare daily inspection reports
  - Regular progress meetings with contractor
  - Inspection and testing services
  - Response to RFIs (request for information) from contractor
  - Review of pay requests and recommendations for payment
  - Negotiation of Change Orders
  - Prevailing Wage Verification
  - Coordination of Funding Reimbursements
  - Staffing will include the following:
    - Construction Inspector: On-Site during all working hours of construction
    - Field Client Representative: On-site weekly reviews with construction inspector, and Off-Site Coordination via phone with Inspector, Contractors, Owner and Construction Manager
    - Construction Manager: On-site Reviews as needed / Off-Site Coordination with Inspector, Contractors, and Owner where possible via phone to control costs

- Construction Engineer: Involved on an as-needed basis to facilitate field decisions and design-related issues.
- Construction Administrative Assistant: Coordination of all documentation from pre-construction, contracts, pay requests, and close-out documents.
- Typical Weekly Staffing for a 40-hour/week construction project is approx.:
  - Construction Inspector: 40 Hours
  - Field Client Representative: 8 Hours
  - Construction Manager: 4 Hours
  - Construction Engineer: 1 Hour
  - Construction Admin: 2 Hours
- **Total Budget Cost per 40-hour week Project = \$ 5,200**
- Total Cost is therefore directly related to the time duration of the construction project.

#### **Task #177 Post-Construction Services**

- The following services are included in the fee shown:
  - Review of final construction with contractor and Owner
  - Preparation, distribution, and approval of final punch list
  - Review of As-Built Drawings
  - Maintenance Bond Coordination
  - Lien releases, payments, and final acceptance

#### **Task #178 Additional Construction Services      *If Authorized***

- This task has been included as an "If Authorized" fee in the event that one or more of the following conditions occur:
  - The Contractor's work schedule exceeds the number of weeks shown above in the Project Schedule.
  - The Contractor's work schedule includes work weeks exceeding 40 hours.
  - The Contractor's work process requires multiple work crews and therefore multiple inspectors on-site simultaneously.
  - The Contractor is granted extra time (time extension) to complete the project.
  - The Contractor is awarded a change order for additional work or changed work conditions.
- If any of the above conditions apply, the Engineer shall document and estimate the total cost to complete the additional inspection services and request authorization/approval from the Owner to cover these costs.

## Price Proposal

#	<i>Engineering Tasks</i>	<i>Fee</i>
Task #56	<i>Pre-Design &amp; Field Analysis</i>	\$ 1,000
Task #59	<i>Design Development</i>	\$ 4,000
Task #60	<i>Construction Documents</i>	\$ 5,200
Task #90	<i>Official Engineer's Project Cost Estimate</i>	\$ 1,000
		<i>Subtotal =</i> \$ 11,200
#	<i>Bidding and Award Tasks</i>	<i>Fee</i>
Task #151	<i>Bidding &amp; Contract Documents</i>	\$ 2,500
Task #152	<i>Bid Process, Review &amp; Award</i>	\$ 2,500
		<i>Subtotal =</i> \$ 5,000
#	<i>Construction Tasks</i>	<i>Fee</i>
Task #175	<i>Pre-Construction Services</i>	\$ 1,600
Task #176	<i>Construction Services</i>	\$ 15,700
Task #177	<i>Post-Construction Services</i>	\$ 1,500
Task #178	<i>Additional Construction Services (If Authorized)</i>	TBD
		<i>Subtotal =</i> \$ 18,800
		<i>Grand Total =</i> \$ 35,000

### Note:

Task #175 & Task #177 shall be billed as a Fixed Fee.

Task #176 & Task #178 (If Authorized) shall be billed at the Standard Hourly Rate.

## Anticipated Project Schedule

Information Gathering Tasks: April/May 2022

Engineering Tasks: April through June 2022

Bidding & Award Tasks: June/July 2022

Construction Tasks: August through September 2022

## Clarifications and Assumptions

- Our Proposal was prepared based on the following assumptions:
  - If additional labor effort or change in schedule is required beyond described herein, OHM Advisors will negotiate an amendment with the City of Garfield Heights. OHM Advisors will not proceed with additional services without written authorization to proceed from the City of Garfield Heights.
  - Meetings shall be conducted in accordance with the Scope of Services as described herein. Additional meetings, not described within our Scope of Services, shall be considered additional services and will be billed on an hourly basis under the Additional As-Needed Services Allowance upon agreement with the City of Garfield Heights.

## Client Responsibilities

- City of Garfield Heights will provide a single point of contact to OHM Advisors who is knowledgeable about the project needs and desired outcomes
- City of Garfield Heights will provide the following, if available, to assist us with the project: (prior as-builts and existing plans, plat maps, site surveys indicating site boundaries, exiting topography, access to structures, easements and utility line information, utility availability, building information, etc.

## Standard Terms & Conditions

The Standard Terms and Conditions contained in the Annual Engineer contract (as approved by Council Legislation) shall also apply to this contract.

RESOLUTION NO: 15-2022

Adopted 4-25-2022  
eff. 5-25-2022  
passes 7-0

SPONSORED BY: COUNCILMAN THOMAS VAUGHN AND  
COUNCILMAN JASON SEITHER

COSponsored: Donanue, Blake

A RESOLUTION HONORING THE MEMORY OF MICHAEL J. ABELLA, SR. AND EXTENDING SINCERE CONDOLENCES TO HIS FAMILY

*WHEREAS*, Michael J. Abella, Sr. was born on December 22, 1947 in Cleveland, Ohio. He graduated from South High School in 1966 where he was inducted into the South High School Hall of Fame for his outstanding contributions to Football and especially Baseball where he was later drafted by the Los Angeles Dodgers organization for the minor leagues, and

*WHEREAS*, Michael and his wife Christine "Tina" moved to Garfield Heights in 1972 and raised two boys Michael, Jr. and Tommy. They lived on Foxcroft Drive in the Saybrook Hills Development of Ward 7 for 37 years until they moved to Brunswick to be closer to their grandchildren, Angela Abella (20) and Kevin Abella (18), and

*WHEREAS*, Michael was a business owner in Garfield Heights for many years "Abella's Home Improvement" was on the corner of Turney Road and Willard Road in Garfield Heights for many years before moving the business to his home office. Mr. Abella coined the phrase "Don't Move... Improve!" He also worked for many years at the County Auditor's office in downtown Cleveland before officially retiring in 2012, and

*WHEREAS*, Michael was very involved in the Garfield Heights Community. He was a 3<sup>rd</sup> Degree Knights of Columbus member, Little League Board Member, and announcer for many little league baseball games when Space Cable was first introduced (1<sup>st</sup> ever cable telecast of Little League in Garfield Heights), and

*WHEREAS*, Michael was elected to 3 consecutive terms as Ward 7 Council Representative, and also served a 4-year term as the elected Council President. He chaired the Finance Committee and served on a Financial Task Force Committee that brought the new fire station to Garfield Heights. After Michael's term ended his son, Michael Abella, Jr. took over his father's position as the Ward 7 Council Representative serving 6 elected terms, and

*WHEREAS*, Michael was an outstanding golfer with a single-digit handicap, and he played in the infamous "35 and older" softball league for the St. Monica's team, and

*WHEREAS*, His greatest joy was spending time with his family and friends and he will always be remembered for his outstanding service to the Garfield Heights Community.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Garfield Heights, Ohio, that:

SECTION 1. The Mayor and Council, on behalf of the residents of the City of Garfield Heights, hereby honor the memory of Michael J. Abella, Sr., and extend sincere condolences to his family.

SECTION 2. This Resolution shall be in full force and effect from and after the earliest period allowed by law.

PASSED: 4-25-2022

APPROVED: Mark H. Bell

MAYOR

Thomas J. Vayh

PRESIDENT OF COUNCIL

ATTEST: Lottie Overly

CLERK OF COUNCIL

EFFECTIVE DATE: 5-25-2022

RESOLUTION NO.: 16-2022

Adopted 4-25-2022

ess. 5-25-2022

Passes 7-0

SPONSORED BY: MAYOR MATTHEW BURKE

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO DO ALL ACTIONS NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) SPONSORSHIP FUNDING FOR COMMUNITY EVENTS FOR 2022

WHEREAS, The City of Garfield Heights is a member of the Northeast Ohio Public Energy Council (NOPEC), and

WHEREAS, the City of Garfield Heights is eligible to receive community event funding through the NOPEC Sponsorship Program, and

WHEREAS, as a member of NOPEC, the City is eligible for a \$3,500.00 sponsorship award to be used for community events in 2022.

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

SECTION 1. Council for the City of Garfield Heights finds and determines that it is in the best interest of the City to accept the NOPEC Sponsorship Funding for Community Events for 2022, and authorizes the Mayor, or his designee, to do all things necessary to apply for the aforementioned funding.

SECTION 2. This Resolution shall be in full force and effect from and after the earliest period allowed by law.

PASSED: 4-25-2022

APPROVED: Matthew A. Burke  
MAYOR

Thomas J. Vaughn  
PRESIDENT OF COUNCIL

ATTEST: Lottie Overy  
CLERK OF COUNCIL

EFFECTIVE DATE: 5-25-2022

RESOLUTION NO.: 17-2022

Adopted 4-23-2022

SPONSORED BY: MAYOR MATTHEW A. BURKE

Eff 5-25-2022

7-1D

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, OR HIS DESIGNEE, TO APPLY FOR THE 2022 ROGER SHARRER "GROW HOCKEY" PROGRAM GRANT

WHEREAS, The Mid-American Hockey Association offers the Roger Sharrer "Grow Hockey" Program, and

WHEREAS, any local hockey association within the Mid-American District of USA Hockey is eligible to apply for equipment funding, and

WHEREAS, funding from the Roger Sharrer "Grow Hockey" award can be used to purchase new equipment to be used by the Garfield Heights Youth Hockey Program at the Dan Kostel Recreation Center ice rink, and

WHEREAS, the Garfield Heights Youth Hockey Program looks to increase diversity of players and grow the ice hockey and figure skating programs for the residents of the city, and

WHEREAS, the 2022 Roger Sharrer "Grow Hockey" equipment grant funding award may be up to \$4,000.00 to be used for the purchase of various hockey/skating equipment.

NOW, THEREFORE, BE IT RESOLVED by the Council of Garfield Heights, Cuyahoga County, State of Ohio, that:

SECTION 1. The Mayor, or his designee, is authorized and directed to apply for the 2022 Mid-American Hockey Association Roger Sharrer "Grow Hockey" Program grant.

SECTION 2. This Resolution shall be in full force and effect from and after the earliest period allowed by law.

PASSED: 4-25-2022

APPROVED: Matthew A. Burke

MAYOR

Thomas J. Vanyo  
PRESIDENT OF COUNCIL

ATTEST: Lottie Ouerly  
CLERK OF COUNCIL

EFFECTIVE DATE: 5-25-2022