

Vote Outcome: Passed
Yes: 6 No: 1
Adopted Date: 4-22-2024
Effective Date: 5-22-2024

ORDINANCE NO: AMENDED 15-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN ORDINANCE AMENDING ORDINANCE 09-2018
WITH RESPECT TO FEES AT THE DAN KOSTEL
RECREATION CENTER

WHEREAS, from time to time, it is necessary to update the fees associated with the recreational department to reflect current competitive pricing; and

WHEREAS, the dates reflective within the ordinance shall be modified for subsequent future programming.

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

SECTION 1. Ordinance 09-2018 is hereby amended and supplemented to read as follows (newly added language shall appear in **bold**; removed language shall be ~~struckthrough~~):

GENERAL FEE SCHEDULE

(A) RECREATION IDENTIFICATION CARDS

Presentation of a Recreation Identification Card is necessary for anyone to enroll and participate in any program within the Parks & Recreation Department. Only said cards can be obtained from the Recreation Center at the following schedule:

		<u>Current</u>
(1)	Residents (Proof of Residency required).....	\$15.00 \$20.00
(2)	Non-Residents.....	\$40.00 \$50.00

Said ID cards are valid for one (1) year determined by the annual activity / program start date, and not to be used for the same program twice.

(B) ICE SKATING RINK / SWIMMING POOL

(1)	General Admission Fees: (with Recreation Identification Card)	
(a)	Children, 5 to 17 years	\$4.00 \$6.00
(b)	Adults, 18 to 64 years	\$6.00 \$8.00
(c)	Senior Adult, 65 years of age and over	No charge (must purchase ID)
(d)	One non-registered guest will be permitted with each Adult ID cardholder or Season Pass Holder.....	\$7.00 \$9.00
	(above pertains to swimming season – no spectators allowed)	
	Skating season can pay general admission.....	\$7.00 \$9.00
	Plus additional skate rental fees (spectators allowed during skating season)	

(2)	Season Passes: Resident (Full Season)		
(a)	Student to & including 17 years of age	\$50.00	\$60.00
(b)	Adult, 18 years of age or over.....	\$60.00	\$70.00
(c)	Family Plan – Maximum Season Pass charge to any one family includes Father, Mother Two (2) Parents/Guardians & up to two (2) of their children under 18 years of age limited to four (4) members (2 Parents/Guardians & 2 dependent children).....	\$120.00	\$130.00
(d)	Families with more than two (2) children shall pay an additional fee of \$10.00 \$15.00 for each additional dependent child (ages 5-17). Immediate Family only. (Birth Certificates must be provided).....	\$10.00	\$15.00
(3)	Season Passes: Non-Resident (Full Season)		
(a)	Student, to & including 17 years of age	\$160.00	\$120.00
(b)	Adult, 18 years of age or older.....	\$190.00	\$145.00
(c)	Family Plan-Maximum Season Pass charge to any one family includes Father, Mother Two (2) Parents/Guardians & up to two (2) of their children under 18 years of age limited to four (4) members (2 Parents/Guardians & 2 dependent children).....	\$370.00	\$270.00
(d)	Families with more than two (2) children shall pay an additional fee of \$10.00 \$15.00 for each additional dependent child (ages 5-17). Immediate Family only. (Birth Certificates must be provided)	\$10.00	\$15.00
(4)	Miscellaneous Charges:		
(a)	Skate rental (Per Session).....	\$5.00	\$7.00
(b)	Skate Sharpening – Hockey & Figure	\$5.00	\$10.00
(c)	Learn to Skate 6 Figure Skating Lessons: (1) Six (6) Session Pass pre-paid (Resident).....	\$36.00	\$60.00
	(2) Six (6) Session Pass pre-paid (Non-Resident).....	\$60.00	\$85.00
(d)	Seasonal programs/fees may be adjusted determined by the amount of lessons given during a period/session.		

(C) MUNICIPAL HOCKEY PROGRAM (TRAVEL)

A Recreation Identification Card is necessary for anyone to enroll and participate in any program with the Parks & Recreation Department

It is to be understood, that the normal sign up procedures to participate which have been established shall remain in effect and total payment is due when a participant signs up for the program.

~~Those that register traditionally may register your child anytime during what is now termed as “Early Bird Registration” at the Recreation Center beginning July through the first week of Sept during any and all open summer office hours.~~

~~Prior to a participant taking Ice, the participant must be pre-registered, or pay the non-refundable walk-on fees.~~

~~The City of Garfield Heights accepts all major credit/debit cards, checks or cash. (We cannot accept American Express).~~

~~Participants choosing to pay total program fees during the Early Bird signup period of early July through Sept registration deadline shall not be subject to a late fee. Any payments received after Sept registration deadline shall incur a late fee of \$15.00.~~

Once a participant is registered, each individual will be required to check in at the office prior to taking ice. This is necessary to account for participants in case of an emergency.

It is mandatory that each participant and parent/legal guardian sign the Parent/Player Behavior Agreement.

FEES: Shall be determined by the criteria listed below;

(1)	Under 8 years of age after Midnight June 30 of current calendar year		
	(a) Resident – Each participant shall pay.....	\$200.00	\$400.00
	(b) Non-Resident – Each participant shall pay	\$310.00	\$510.00
(2)	8 years of age or over after Midnight June 30 of the current calendar year		
	(a) Resident – Each participant shall pay	\$250.00	\$450.00
	(b) Non-Resident – Each participant shall pay	\$510.00	\$710.00
(3)	For the 2014 2015 Hockey Season, the City of Garfield Heights Parks and Recreation Department will establish a pilot “Payment Plan Option” to ease the burden of costs to participate in the “Municipal Hockey Travel Program. The “Payment Plan Option” shall be reviewed annually to determine if this is a viable option for future use.		

~~As prescribed in the amended ordinance, the “Payment Plan Option” has been discontinued during the 2017 2018 season and may or may not be re-implemented. It is at the discretion of the Director.~~

~~The payment plan will be offered on a case by case basis and only to those that prove hardship cases indicating that they are in need of the “Payment Plan Option”. Families requesting the “Payment Plan Option” shall provide information to the Recreation Director by scheduled appointment for review of their hardship. Determination to participate shall be made by the Recreation Director. In determining eligibility for the “Payment Plan Option,” the following procedure will be used:~~

- i. ~~Residents of Garfield Hts. shall be considered first.~~
- ii. ~~Non-resident participants shall be considered next.~~
- iii. ~~Proof of hardship must be established and approved by the Recreation Director by submitting the following~~
 - A. ~~Unemployment statement~~
 - B. ~~Food Stamp notification form from the county or card~~
 - C ~~Eviction/Foreclosure notice from courts~~
 - D ~~Any pertinent information which shows cause~~
 - E ~~Families with multiple participants~~
- iv. ~~The parent/legal guardian must fill out the “Promissory Note” form and agree to all the conditions of the program.~~

- v. Participants must be pre registered by a parent or legal guardian during the "Early Bird Registration" period prior to taking ice by the season start date.
- vi. Early Registration will be from early July through Sept. registration deadline during all summer office hours. After the set Sept deadline date, a late fee of \$15.00 shall incur.
- vii. ID cards must be purchased at the initial sign up, no exceptions and a universal participation card completed and accompanied by 1/3 payment of total costs.
- viii. Payments made will be non-refundable.
- ix. The promissory note holder/parent/ legal guardian must make a partial payment of 1/3 (one third) when signing up plus the purchase of an ID card and 1/3 payments on the subsequent due dates for a total of three payments by credit card or cash as set forth below: If total payments are not made by the deadline the late fee shall be assessed.

- 1. July 15th through Sept. 10th (1st payment due upon initial registration during signup plus ID card)
You may choose to register as early as June
- 2. Oct. 13 through 17 (2nd payment due)
- 3. Nov. 10 through 14 (third and final payment due)

RESIDENT

8-U U-8	7/15/14	9/10/14	\$50.00 + ID \$10.00 = \$60.00
	10/13/14	10/17/14	\$50.00
	11/10/14	11/14/14	\$50.00

NON RESIDENT

8U U-8	7/15/14	9/10/14	\$80.00 + ID \$35.00 = \$115.00
	10/13/14	10/17/14	\$90.00
	11/10/14	11/14/14	\$90.00

RESIDENT

8+	7/15/14	9/10/14	\$60.00 + ID \$10.00 = \$70.00
	10/13/14	10/17/14	\$70.00
	11/10/14	11/14/14	\$70.00

NON RESIDENT

8+	7/15/14	9/10/14	\$140.00 + ID \$35.00 = \$175.00
	10/13/14	10/17/14	\$160.00
	11/10/14	11/14/14	\$160.00

- x. If payments are not made in the time frame prescribed, a breach of the agreement shall be determined and the late fee of \$15.00 a penalty of 10% shall be added to the amount due. Total payment will be due in order for the participant to partake in any part of the programming. No ice time shall be permitted until financial obligations are satisfied.
- xi. If the participant/family chooses to leave the program while on the payment plan, no refunds will be made and no release shall be given until fees are paid in full.

(D) THE PARKS & RECREATION DIRECTOR SHALL NEGOTIATE RENTAL AGREEMENTS WITH ORGANIZATIONS TO DETERMINE THE PURPOSE OF USE, RENTAL DATES, HOURS REQUESTED, AVAILABILITY OF ICE TIME, AND/OR OTHER USED CONSISTANT WITH THE EFFICIENT OPERATION OF THE SKATING RINK.

(E) **SWIMMING POOL**

(1) GENERAL ADMISSION FEES: (must have Recreation Identification Card)

(a) Student, 5 years of age & including 17 years	\$4.00	\$6.00
(b) Adult, 18 to 64 years	\$6.00	\$8.00
(c) Senior Adults, 65 years and older	No charge	(must purchase ID)
(d) One Non-registered guest will be permitted with each resident.		
Adult ID cardholder or Season Pass Holder.....	\$7.00	\$9.00

THERE ARE NO SPECTATORS – ALL MUST PAY TO ENTER POOL AREA

(2) **SEASON PASSES**

Season Pass and Family Swim Passes for Swimming Pool shall be valid only for the Season it was purchased.

The Recreation Center Identification Card and Season Pass and Family Plan will be mutually exclusive except where provided in the above.

(a) Resident

(1) Student, 17 years of age and under.....	\$50.00	\$60.00
(2) Adult, 18 to 64 years.....	\$55.00	\$70.00
(3) Family Plan- Maximum Season Pass charge to any one family shall include Mother, Father Two (2) Parents/Guardians & up to two (2) of their children under 18 years of age limited to 4 members		
(2 Parents/Guardians & 2 dependent children)	\$110.00	\$130.00
(4) Families with more than 2 children shall pay an additional fee of \$10.00 for each additional dependent child (ages 5-17). Immediate family only. (Birth Certificates must be provided).....	\$10.00	\$15.00

(b) Non-Resident

(1) Students, 17 years of age & under	\$160.00	\$120.00
(2) Adults, 18 years of age and older.....	\$190.00	\$145.00
(3) Family Plan-Maximum Season Pass charge to any one family shall include Father, Mother Two (2) Parents/Guardians & up to two (2) of their children under 18 years of age limited to 4 members		
(2 Parents/Guardians & 2 dependent children).....	\$370.00	\$270.00
(4) Families with more than 2 children shall pay an additional fee of \$10.00-\$15.00 for each additional dependent child (ages 5-17). Immediate family only. (Birth Certificates must be provided).....	\$10.00	\$15.00

(3) **LEARN TO SWIM LESSONS**

(a) Resident – (Sessions consists of 8 Lessons).....	\$40.00	\$60.00
(b) Non-Resident-(Sessions consists of 8 Lessons).....	\$80.00	\$90.00

(4) **GAZEBO/PICNIC AREA RENTAL FEES**

(a) **RENTAL FEES (CASH OR CREDIT CARD ONLY)**

(1) Deposit	\$150.00	\$175.00
(2) 0-15 People	\$150.00	\$175.00
(3) 15-30 People	\$275.00	\$300.00

(b) **RENTAL REQUIREMENTS**

- (1) Rates are based on maximum usage of 3 hours
- (2) Offered to Garfield Heights Residents only

- (3) Residents can rent the Gazebo during regular public session hours only (1PM-7PM)
- (4) Residents must clean up one-half (1/2) hour before rental end time
- (5) Usage of facility is on first come first serve basis and availability of dates
- (6) The lessee should arrive at least 15 minutes prior to rental time for check in
- (7) Lessee must provide a guest list (guest list should include names, addresses, phone and emergency contacts) prior to use of facility so that wrist bands can be issued to attendees with proof of ID which matches guest list
- (8) Food and drinks are allowed within the parameters of the fenced gazebo area, upon request the Rec Center can provide an outdoor grill for the area
- (9) All pool rules apply in and around the pool deck area
- (10) Each guest must use the footbath provided when exiting gazebo area to ensure proper hygiene and water safety

(c) **REFUND OF RENTAL FEES**

- (1) If the lessee is canceling, he/she must notify the Rec Center no later than one week before event, otherwise, an administrative fee of \$35.00 will be charged
- (2) If event is cancelled before event day due to weather or unforeseen circumstances you may reschedule if dates are available, however, if a date cannot be determined a full refund will be issued
- (3) The Rec Center will attempt to notify the lessee in a reasonable time frame if circumstances cause such a cancellation, however, under no circumstances will the Rec Center notify the attendees, that remains the responsibility of the lessee
- (4) If facility is used for 2 of the 3 hour rental period and due to weather conditions or unforeseen circumstances the facility closes, no refund will be returned, however, if the use of facility is less than half of the allotted one and one-half (1 ½) hours, a refund of half (1/2) of the rental fee will be returned.

(F) LOCKER RENTAL

(1) Small – Per Day	\$.50	\$1.00
(2) Large – Per Day	\$1.00	\$2.00
(3) Lost Key Charge	\$50.00	\$60.00

(G) GIRL'S SOFTBALL, T-BALL, SOCCER, FUTSAL, FITNESS

Recreation Identification Card required

(1) Resident	\$50.00	\$60.00
(2) Non-Resident	\$80.00	\$80.00
(3) Fitness fees shall be determined by session dates (seasonal) due to varying classes and available days.		

(H) IN-HOUSE HOCKEY/FIGURE SKATING (LEARN TO SKATE PROGRAM And/or all organized sports or activities)

Recreation Identification Card required

(1) Resident.....	\$50.00	\$100.00
(2) Non-Resident.....	\$70.00	\$150.00

(I) TENNIS COURTS, SKATE BOARD PARK

- (1) No charge will be made for the use of the courts or skate board park
- (2) Miscellaneous Provisions:

Tennis Court Reservations for groups must be made at the Recreation Center
 Court opening and closing times for special scheduled events shall be at the discretion of
 the Director of Parks & Recreation.

All other Programs and Rental Agreements, Fees, and Charges not covered herein shall be at the discretion of the Director of Parks & Recreation. Dates and times of operation and programs shall also be established by the Director of Parks & Recreation. Fees may be pro-rated or reduced upon completion of half of the designated activity chronological time at the discretion of the Director of Parks & Recreation.

(J) SPECIAL EVENTS

The Parks & Recreation Director shall establish rates to be charged to either persons or organization for the use of the Recreation Center facilities for special events with regard to efficient operations of the facility.

SECTION 2. Existing Ordinance 09-2018 and any other Ordinances of the City of Garfield Heights which are inconsistent with the provisions of this Ordinance be, and the same are hereby repealed from and after the effective date of this Ordinance.

SECTION 3. Council declares this Ordinance to be necessary for the preservation of the health, safety, and welfare of the citizens of the City of Garfield Heights; this Ordinance shall take effect in thirty (30) days upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: 4-22-2024

APPROVED: Mark A. B.C.
MAYOR

ATTEST: Lottie Omerly
CLERK OF COUNCIL

Amy Johnson
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 5-22-2024

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 16-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH OHM ADVISORS TO PROVIDE MLK BOULEVARD SEWER CONGRESSIONAL DIRECT SPENDING FUNDING ASSISTANCE TO THE CITY OF GARFIELD HEIGHTS

WHEREAS, the City has secured a federal congressional direct spending grant to offset construction costs for the MLK Boulevard sewer project; and

WHEREAS, the formal grant process requires a series of steps to be finalized with the United States Environmental Protection Agency before funds are made available for the awarded project; and

WHEREAS, the City is requesting assistance from OHM Advisors to guide and prepare the associated applications necessary to finalize the award; and

WHEREAS, the City of Garfield Heights has deemed it to be in the best interest of the City to enter into an agreement with OHM Advisors to provide MLK Boulevard Sewer Congressional Direct Spending Funding Assistance to the City of Garfield Heights; and

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 incorporated as if fully written within) with OHM Advisors to provide MLK Boulevard Sewer Congressional Direct Spending Funding Assistance to the City of Garfield Heights at a cost not to exceed \$7,450.

SECTION 2. The Finance Director is hereby authorized and directed to issue her vouchers of the City for the purposes stated 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; 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: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

ATTEST: Lottie Overly
CLERK OF COUNCIL

Lottie Overly
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024



March 20, 2024

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

RE: MLK Blvd. Sewer - Congressional Direct Spending – Funding Assistance
Location: Garfield Heights, OH
Proposal #24042

Dear Mayor Burke:

OHM Advisors (OHM) is pleased to provide the following scope of services, project schedule, and price proposal which represent our understanding of the project, based upon prior discussions, meetings, and project information made available at the time of this proposal. Should you have any questions, please let us know.

Proposal Outline

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Sincerely,
OHM Advisors

A handwritten signature in black ink that appears to read "R. Tony Burgoyne".

R. Tony Burgoyne, PE
Project Manager
Tony.Burgoyne@ohm-advisors.com
D: 330.913.1048 C: 330.805.7628

A handwritten signature in blue ink that appears to read "Josh Slaga".

Josh Slaga, PE
Principal
Josh.Sлага@ohm-advisors.com
D: 330.913.1065 C: 216.280.3022

Authorization to Proceed

A handwritten signature in blue ink that appears to read "Matthew A. Burke".
Signature 4/22/2024 Date

A handwritten signature in blue ink that appears to read "Matthew A. Burke".
Printed Name MAYOR Title

OHM Advisors®

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Project Understanding

Garfield Heights has secured a Federal Congressional Direct Spending (CDS) Grant to offset construction costs for the MLK Blvd. Sewer Project. The formal grant process requires a series of steps to finalize with the U.S. EPA before funds are made available for the awarded project. Garfield Heights requests assistance to guide and prepare the associated applications necessary to finalize the grant award.

To that end, OHM will complete the following Scope of Services.

Scope of Services

Task #1 Congressional Direct Spending Funding Assistance

The following services are included in the fee shown:

- ▶ Coordination with U.S. EPA Region 5 Water Division of the State and Tribal Programs and Support Branch
- ▶ Development of the Project Workplan
- ▶ Development of the Budget Narrative
- ▶ Development of the Categorical Exclusions (CATEXs) Document
- ▶ Assistance with the completion of the following applications:
 - SF-424
 - SF-424A-V1 Workspace Form
 - Preaward Compliance EPA4700 Form
- ▶ Review and Revise Opinion of Probable Construction Costs (OPCC) to determine budget splits and disbursement percentages.
- ▶ Assistance with access to Grants.Gov and ASAP.gov if not already available.

Deliverables:

- ▶ Hardcopy and electronic PDF of the Project Workplan, Budget Narrative, CATEXs, SF-424, SF-424A, EPA4700 Form, and OPCC summary. The listed deliverables will be supplied through the appropriate portals with the U.S. EPA.

Exclusions

- OHM assumes no impacts to environmental, historical, or cultural resources are anticipated. Therefore, environmental, historical, and cultural resource investigations and reporting are excluded.

Anticipated Project Schedule

Funding Tasks: April through September 2024

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Compensation

The price proposal below shall be completed on a fixed fee basis.

Price Proposal

<i>Task #</i>	<i>Task Description</i>	<i>Fee</i>
<i>Task #1</i>	<i>Congressional Direct Spending Funding Assistance</i>	<i>\$ 7,200</i>
<i>ODC</i>	<i>Reimbursable Expenses</i>	<i>\$250</i>
	<i>Grand Total =</i>	<i>\$ 7,450</i>

Terms & Conditions

The Terms and Conditions contained in the Annual Engineering contract per resolution number 104-2022 shall also apply to this contract.

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ORDINANCE NO.:

17-2024

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

SPONSORED BY:

MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO DO ALL THINGS NECESSARY TO PARTICIPATE IN THE NORTHEAST OHIO REGIONAL SEWER DISTRICT (NEORSD) PROGRAM(S), FOR THE THORNHURST AVENUE SEWER SEPARATION PROJECT, INCLUDING, BUT NOT LIMITED TO EXECUTING APPLICATIONS, AGREEMENTS AND /OR CONTRACTS AS MAY BE REQUIRED BY THE NEORSD IN ORDER TO SECURE THE GRANT FUNDS REQUESTED, PER THE APPLICATION AS PREPARED BY CITY ENGINEER

WHEREAS, the current condition of the sanitary sewer and storm sewer lines, located Thornhurst Avenue, are undersized and have deteriorated to a point that it has been determined to cause flooding of the resident's basements; and

WHEREAS, Thornhurst Avenue will have the sanitary and storm sewer lines repaired and replaced as needed; and

WHEREAS, the sanitary and storm sewer repair, will improve the health and safety of the residents in the area and is eligible for funding through the NEORSD Program(s); and

WHEREAS, the City of Garfield Heights wishes to make an application for grant funding for this project to the NEORSD.

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 do all things necessary to participate in the NEORSD Program(s), for the Thornhurst Avenue Sewer Separation Project, including, but not limited to executing applications, agreements and/or contracts as may be required by the Northeast Ohio Regional Sewer District, in order to secure the funds requested, as prepared by City Engineer.

SECTION 2. The Finance Director is hereby authorized and directed to issue her vouchers of the City for the purposes stated 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; 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: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

ATTEST: Lottie Overly
CLERK OF COUNCIL

Avery Johnson
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024



March 29, 2024

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

RE: Granger Road Hill – Part 2 – Re-bid
Location: Garfield Heights, OH
Proposal #21205A

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

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Sincerely,
OHM Advisors



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

Authorization to Proceed



Signature
Printed Name



4/24/2024
Date
Title

OHM Advisors

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Project Understanding

The referenced project includes updating Granger Road Hill Drainage Phase 2 plan set and bid documents for re-bidding in efforts to construct the project in 2024.

This proposal includes professional services for design engineering and bidding services, in accordance with the scoped tasks described herein.

Scope of Services - Design Engineering Tasks

Task #60A Construction Documents

- The following services are included in the fee shown:
 - Update of Construction Documents shall include the following:
 - Title Sheet
 - Legend
 - Schematic Plan
 - Typical Section
 - General Notes
 - Maintenance of Traffic Notes
 - Maintenance of Traffic Plan
 - Maintenance of Traffic Sections
 - General Summary
 - Plan & Profile Sheets
 - Cross Sections Sheets
 - Superelevation Table
 - Traffic Control
 - Pavement Marking
 - Design will include all details and specifications required for public bidding of a unit price contract, in accordance with industry standards
 - Deliverables:
 - Submittal of 100% Design Plans to client
 - Updated construction cost estimate
 - Submittal of 100% Design Plans set to private utility companies for final resolution of conflicts with respective utilities

Scope of Services - Bidding and Award Tasks

Task #151A Bidding and Contract Documents

- 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.
 - Contract Documents
 - Upon community legislation to award the construction bid, OHM will prepare (3) three copies of contract documents for execution, bonding, insurance, etc.
 - OHM will prepare the notice of commencement for signature(s)

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Task #152A Bid Process, Review, and 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
 - The fee provided includes one bidding process only. In the event the project needs rebid, a contract modification will be submitted for the additional bidding services provided. Additional services will commence upon approval of the contract modification.

Price Proposal

#	Design Engineering Tasks	Fee
Task #60A	Construction Documents	\$18,000
	<i>Subtotal =</i>	\$18,000
#	Bidding and Award Tasks	Fee
Task #151A	Bidding and Contract Documents	\$ 3,500
Task #152A	Bid Process, Review, and Award	\$ 3,500
	<i>Subtotal =</i>	\$ 7,000
	<i>Grand Total =</i>	\$25,000

Compensation

The fee proposal above shall be completed on a lump sum basis.

Anticipated Project Schedule

Design Engineering Tasks: April – May 2024

Bidding & Award Tasks: May – July 2024

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.

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- 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.)

Terms & Conditions

The Terms and Conditions contained in the Annual Engineering contract per ordinance number 104-2022 shall also apply to this contract.

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Vote Outcome: PASSED
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 18-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE CITY ENGINEER TO PREPARE THE NECESSARY PLANS AND SPECIFICATIONS, PER THE OHM ADVISORS PROPOSAL, AND TO GO OUT FOR COMPETITIVE BIDS, FOR THE GRANGER ROAD HILL STORM SEWER PROJECT – PHASE 2, AND AUTHORIZING PAYMENT OF COSTS FOR THIS PROJECT

WHEREAS, The City of Garfield Heights wishes to improve drainage conditions along Granger Road heading downhill from Overdrive Way; and

WHEREAS, the City Engineer has prepared a proposal, “Exhibit A,” for the survey, engineering, bidding and construction tasks; 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 is hereby authorized and directed to prepare the necessary plans and specifications, per the OHM Advisors Proposal attached hereto as Exhibit A, and if necessary, to go out for competitive bids for the Granger Rd Hill Storm Sewer project – Phase 2, and authorizing the payment of the costs for this project.

SECTION 2. Upon compilation and tabulation of the bids received for the project, the City Engineer 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 \$25,000.00.

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: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

Aug. 2024
PRESIDENT OF COUNCIL

ATTEST: Lotto Overly
CLERK OF COUNCIL

EFFECTIVE DATE: 4-22-2024



March 29, 2024

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

RE: Granger Road Hill – Part 2 – Re-bid
Location: Garfield Heights, OH
Proposal #21205A

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

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Scope of Services - Bidding and Award Tasks	2
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Client Responsibilities	4
Terms & Conditions	4

Sincerely,
OHM Advisors

Authorization to Proceed

A handwritten signature in black ink that reads 'Chad M. Lewis'.

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

Signature	Date
-----------	------

Printed Name	Title
--------------	-------

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Project Understanding

The referenced project includes updating Granger Road Hill Drainage Phase 2 plan set and bid documents for re-bidding in efforts to construct the project in 2024.

This proposal includes professional services for design engineering and bidding services, in accordance with the scoped tasks described herein.

Scope of Services - Design Engineering Tasks

Task #60A Construction Documents

- The following services are included in the fee shown:
 - Update of Construction Documents shall include the following:
 - Title Sheet
 - Legend
 - Schematic Plan
 - Typical Section
 - General Notes
 - Maintenance of Traffic Notes
 - Maintenance of Traffic Plan
 - Maintenance of Traffic Sections
 - General Summary
 - Plan & Profile Sheets
 - Cross Sections Sheets
 - Superelevation Table
 - Traffic Control
 - Pavement Marking
 - Design will include all details and specifications required for public bidding of a unit price contract, in accordance with industry standards
 - Deliverables:
 - Submittal of 100% Design Plans to client
 - Updated construction cost estimate
 - Submittal of 100% Design Plans set to private utility companies for final resolution of conflicts with respective utilities

Scope of Services - Bidding and Award Tasks

Task #151A Bidding and Contract Documents

- 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.
 - Contract Documents
 - Upon community legislation to award the construction bid, OHM will prepare (3) three copies of contract documents for execution, bonding, insurance, etc.
 - OHM will prepare the notice of commencement for signature(s)

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Task #152A Bid Process, Review, and 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
 - The fee provided includes one bidding process only. In the event the project needs rebid, a contract modification will be submitted for the additional bidding services provided. Additional services will commence upon approval of the contract modification.

Price Proposal

#	Design Engineering Tasks	Fee
<i>Task #60A</i>	<i>Construction Documents</i>	<i>\$18,000</i>
		<i>Subtotal =</i> <i>\$18,000</i>
#	Bidding and Award Tasks	Fee
<i>Task #151A</i>	<i>Bidding and Contract Documents</i>	<i>\$ 3,500</i>
<i>Task #152A</i>	<i>Bid Process, Review, and Award</i>	<i>\$ 3,500</i>
		<i>Subtotal =</i> <i>\$ 7,000</i>
		<i>Grand Total =</i> <i>\$25,000</i>

Compensation

The fee proposal above shall be completed on a lump sum basis.

Anticipated Project Schedule

Design Engineering Tasks: April – May 2024

Bidding & Award Tasks: May – July 2024

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.

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- 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.)

Terms & Conditions

The Terms and Conditions contained in the Annual Engineering contract per ordinance number 104-2022 shall also apply to this contract.

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Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO. 19-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$1,900,000 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, which notes were retired at maturity with the proceeds of \$2,600,000 of notes issued in anticipation of general obligation bonds, pursuant to Ordinance No. 40-2022, passed on April 25, 2022, as part of a consolidated issue of \$3,600,000 Street Improvement Notes, Series 2022, which notes were retired at maturity with proceeds of \$2,400,000 of notes (the Outstanding Notes), issued in anticipation of bonds for the purpose stated in Section 1, pursuant to Ordinance No. 35-2023, passed on April 24, 2023, as part of a consolidated issue of \$3,400,000 Street Improvement Notes, Series 2023, which Outstanding Notes will mature on June 13, 2024; and

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 other funds available to the City; 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 10 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 \$1,900,000 (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, 2025, shall bear interest at the now estimated rate of 6.50% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 10 annual principal installments on December 1 of each year that are substantially equal. The first principal installment is estimated to be December 1, 2026, and the first interest payment is estimated to be December 1, 2025.

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 \$1,900,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire 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 6.00% 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: 4-22-2024

APPROVED: Mathew A. B. L.

ATTEST: Sotthe Ouey

Aug Johnson
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024

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 \$1,900,000 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 10 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 18, 2024



Director of Finance
City of Garfield Heights, Ohio

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO. 20-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

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, pursuant to Ordinance No. 41-2022, passed on April 25, 2022, there were issued \$250,000 of notes, issued in anticipation of bonds for the purpose stated in Section 1, as part of a consolidated issue of \$3,600,000 Street Improvement Notes, Series 2022, which notes were retired at maturity with proceeds of \$250,000 of notes (the Outstanding Notes), issued in anticipation of bonds for the purpose stated in Section 1, pursuant to Ordinance No. 36-2023, passed on April 24, 2023, as part of a consolidated issue of \$3,400,000 Street Improvement Notes, Series 2023, which Outstanding Notes will mature on June 13, 2024; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds available to the City; 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 15 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is June 15, 2042;

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, 2025, shall bear interest at the now estimated rate of 6.50% 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, 2026, and the first interest payment is estimated to be December 1, 2025.

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 and to retire 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 6.00% 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: 4-22-2024

APPROVED: Mark A. B.L.

Aug. Johnson
PRESIDENT OF COUNCIL

ATTEST: Lottie Dwyer

EFFECTIVE DATE: 4-22-2024

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 June 15, 2042, which is 20 years from June 15, 2022, the date of issuance of the original notes issued for this purpose.

Dated: April 18, 2024



Barbara A. Min
Director of Finance
City of Garfield Heights, Ohio

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO. 21-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

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, pursuant to Ordinance No. 42-2022, passed on April 25, 2022, there were issued \$750,000 of notes, issued in anticipation of bonds for the purpose stated in Section 1, as part of a consolidated issue of \$3,600,000 Street Improvement Notes, Series 2022, which notes were retired at maturity with proceeds of \$750,000 of notes (the Outstanding Notes), issued in anticipation of bonds for the purpose stated in Section 1, pursuant to Ordinance No. 37-2023, passed on April 24, 2023, as part of a consolidated issue of \$3,400,000 Street Improvement Notes, Series 2023, which Outstanding Notes will mature on June 13, 2024; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds available to the City; 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 20 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is June 15, 2042;

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, 2025, shall bear interest at the now estimated rate of 6.50% 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, 2026, and the first interest payment is estimated to be December 1, 2025.

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 and to retire 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 6.00% 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: 4-22-2024

APPROVED: Math. A. B. L.

Aug. Johnson
PRESIDENT OF COUNCIL

ATTEST: Lotte Oerly

EFFECTIVE DATE: 4-22-2024

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 June 15, 2042, which is 20 years from June 15, 2022, the date of issuance of the original notes issued for this purpose.

Dated: April 18, 2024



Barbara Brin
Director of Finance
City of Garfield Heights, Ohio

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO. 22-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$2,000,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING GRANGER ROAD AND OTHER STREETS AND ROADS IN THE CITY BY CONSTRUCTING, RECONSTRUCTING, RESURFACING, PAVING, GRADING, DRAINING, AND CURBING, AND IMPROVING, CONSTRUCTING AND RECONSTRUCTING RELATED CATCH BASINS, WATERLINES, SANITARY SEWERS AND STORM SEWERS, AND 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 \$2,000,000 (the Bonds) to pay costs of improving Granger Road and other streets and roads in the City by constructing, reconstructing, resurfacing, paving, grading, draining, and curbing, and improving, constructing and reconstructing related catch basins, waterlines, sanitary sewers and storm sewers, and 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, 2025, shall bear interest at the now estimated rate of 6.50% 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, 2026, and the first interest payment is estimated to be December 1, 2025.

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 \$2,000,000 (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 6.00% 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: 4-22-2024

APPROVED: Matthew A. B.L.

Amy Johnson
PRESIDENT OF COUNCIL

ATTEST: Rottie Oueley

EFFECTIVE DATE: 4-22-2024

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 \$2,000,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), to pay costs of improving Granger Road and other streets and roads in the City by constructing, reconstructing, resurfacing, paving, grading, draining, and curbing, and improving, constructing and reconstructing related catch basins, waterlines, sanitary sewers and storm sewers, and 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 18, 2024



Anna Suri
Director of Finance
City of Garfield Heights, Ohio

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 23-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING ALL ACTIONS
NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY
COUNCIL (NOPEC) ENERGIZED COMMUNITY GRANT(S) FOR 2024

WHEREAS, in Ordinance 14-2018, the City of Garfield Heights entered into an agreement with Northeast Ohio Public Energy Council ("NOPEC") to receive grant funding through its Energized Community Grant Program; and

WHEREAS, as a member of NOPEC, the City is eligible for one or more NOPEC Energized Community Grant(s) in 2024; and

WHEREAS, this year, the City is eligible to receive \$52,021.00; and

WHEREAS, the City also has \$79,275.98 in funding escrowed with NOPEC; and

WHEREAS, in the event Council passes this legislation, and the City receives grant funding, the terms of the agreement entered into in Ordinance 14-2018 shall remain in effect for the 2024 calendar year.

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 NEC Grant(s) for 2024, and authorizes the Mayor or his designee to apply for the available funding.

SECTION 2. Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 3. 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 amount to be charged to the appropriate Fund.

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

PASSED: 4-22-2024

APPROVED: Matthew Burke
MAYOR

ATTEST: Sottle Overly
CLERK OF COUNCIL

Aug. 2024
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024

Vote Outcome: PASSED
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 24-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH OHM ADVISORS TO PROVIDE PUBLIC SECTOR ENGINEERING REVIEW AND CONSTRUCTION SERVICES TO THE CITY OF GARFIELD HEIGHTS

WHEREAS, the City Council of the City of Garfield Heights has deemed it to in the best interest of the City to enter into an agreement with OHM Advisors to provide public sector engineering review and construction services to the City of Garfield Heights.

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 incorporated as if fully written within) with OHM Advisors to provide public sector engineering review and construction services to the City of Garfield Heights at a cost not to exceed \$20,000.00.

SECTION 2. The Finance Director is hereby authorized and directed to issue her vouchers of the City for the purposes stated 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; 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: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

ATTEST: S. Lotte Quigley
CLERK OF COUNCIL

Amy Johnson
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024

ARCHITECTS. ENGINEERS. PLANNERS.



April 15, 2024

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

RE: Public Sector Engineering Review and Construction Services
Proposal # 24053

Dear Mayor Burke:

The following scope of services, price proposal, and project schedule 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.....	2
Price Proposal.....	2
Client Responsibilities	2
Terms & Conditions.....	2

Sincerely,
OHM Advisors

Authorization to Proceed

James Sickels
Project Manager
James.sickels@ohm-advisors.com
D: 330.913.1050 C: 330.338.5349

Signature

Date

Printed Name

Title

Josh Slaga, PE
Principal
Josh.slaga@ohm-advisors.com

OHM Advisors

388 SOUTH MAIN STREET, SUITE 301
AKRON, OHIO 44311

T 330.913.1080
F 330.319.8691

OHM-Advisors.com



Project Understanding

The purpose of this contract is to support and supplement the daily needs of the City of Garfield Heights as broadly outlined below. The City's primary point of contact with OHM will be James Sickels. When requested, OHM will provide engineering review services and construction services for public projects.

Scope of Services

Any/all services listed below will be performed at the request and direction of the City of Garfield Heights. Additional technical services, not specifically outlined or anticipated below, can also be performed under this contract.

Task #1 Public Sector Plan Review

- Example services include, but not limited to:
 - Perform record plat, site plan, and engineering plan review when requested by public entities to ensure Garfield Heights standards are met. Agencies requesting reviews for projects planned within Garfield Heights may include ODOT, NEORSD, Cuyahoga County Public Works, and other public sector entities.

Task #2 Public Sector Construction Services

- Example services include, but not limited to:
 - Attend pre-construction and progress meetings
 - Respond to RFI's (Request For Information)
 - Provide the following staff when requested:
 - Construction Inspector
 - Field Client Representative
 - Construction Engineer

Price Proposal

Services provided by this Public Sector Engineering Review and Construction Services Contract shall be invoiced hourly, at OHM standard hourly rate (updated annually) at a not-to-exceed fee of \$20,000.

Client Responsibilities

City of Garfield Heights will provide a single point of contact to OHM Advisors who is knowledgeable about the project's needs and desired outcomes.

Terms & Conditions

The Terms and Conditions contained in the Annual Engineering contract per ordinance number 104-2022 shall also apply to this contract.

OHM Advisors

388 SOUTH MAIN STREET, SUITE 301
AKRON, OHIO 44311

T 330.913.1080
F 330.319.8691

OHM-Advisors.com

Vote Outcome: PASSED
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 25-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE
CO-SPONSORED BY:

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THENDESIGN ARCHITECTURE TO PROVIDE PROFESSIONAL DESIGN SERVICES FOR THE JUSTICE CENTER PROJECT – PHASE 1, PURSUANT TO THE AGREEMENT ATTACHED HERETO AS “EXHIBIT A”

WHEREAS, the City of Garfield Heights is currently exploring the possibility of constructing a new Justice Center to house the City's Court, Police Department, and Jail; and

WHEREAS, the City would like to enter into an agreement with ThenDesign Architecture (hereinafter tda) for the purposes of beginning this project; and

WHEREAS, under Phase 1, tda will meet and interview Justice Center staff and administrators, document and assess existing conditions, develop a Program of Requirements (POR), prepare conceptual layouts for the City's review, and develop cost estimates and funding strategies.

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 with tda to provide professional design services for the Justice Center Project – Phase 1, pursuant to the agreement attached hereto as Exhibit A, at a cost not to exceed \$20,000.00.

SECTION 2. The Finance Director is hereby authorized and directed to issue her vouchers of the City for the purposes stated 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; 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: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

ATTEST: Lorraine Ovelty
CLERK OF COUNCIL

Amy Johnson
PRESIDENT OF COUNCIL
4-22-2024
EFFECTIVE DATE:

Statement of Qualifications and Fee Proposal for the:



Garfield Heights Municipal Court

Municipal Court Existing Conditions Analysis and Facility Programming



Prepared for:



April 12, 2024

PROJECT SCHEDULE

4 Months Total Estimated Project Schedule

Day 1

Weeks 1-3

Weeks 4-6

Weeks 7-12

Weeks 13-16

Court Interviews

Meetings with
Judges, Magistrates,
Police Department,
and Staff

**Existing Conditions
Documentation and
Assessment**

Document Existing
Conditions

**Develop Program of
Requirements
(POR)**

Develop Space
Requirements from
Court Interviews

**Prepare Conceptual
Layouts**

Prepare Concept
Layouts for Court
and City Review

**Develop Cost
Estimates and
Funding Strategies**

Prepare Preliminary
Budget Estimates
and Work with the
City and Bond
Counsel to develop
Funding Strategies

FEES SCHEDULE

\$15,200.00 Total Estimated Project Cost

Day 1

Weeks 1-3

Weeks 4-6

Weeks 7-12

Weeks 13-16

Court Interviews

\$1,600.00

**Existing Conditions
Documentation and
Assessment**

\$3,800.00

**Develop Program of
Requirements
(POR)**

\$2,500.00

**Prepare Conceptual
Layouts**

\$5,500.00

**Develop Cost
Estimates and
Funding Strategies**

\$1,800.00

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 26-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING THE PURCHASE AND USE OF AN EMPLOYEE DISHONESTY AND FAITHFUL PERFORMANCE OF DUTY POLICY IN LIEU OF INDIVIDUAL SURETY BONDS, PURSUANT TO R.C. 3.061

WHEREAS, the City of Garfield Heights, Ohio is a member of the Ohio Plan, a joint self-insurance pool established pursuant to R.C. 2744.081; and

WHEREAS, the Ohio General Assembly, by the enactment of H.B. 291 (eff. March 20, 2019), codified at R.C. 3.061, has authorized political subdivisions, such as the City, to acquire employee dishonesty and faithful performance of duty policy coverage for officers, employees, and appointees of political subdivisions who are otherwise required by law to obtain individual surety bonds for the faithful performance of the discharge of their duties before assuming office; and

WHEREAS, such employee dishonesty and faithful performance of duty policy may be in lieu of such officers, employees, and appointees being required to obtain individual surety bonds; and

WHEREAS, in accordance with R.C. 3.061, the City must adopt a policy by ordinance or resolution to allow the use of an “employee dishonesty and faithful performance of duty” coverage document, rather than a surety bond, to cover loss by fraudulent or dishonest actions of employees and failure of employees to faithfully perform duties; and

WHEREAS, in accordance with R.C. 3.061(D), the following shall apply to the policy:

1. An officer, employee, or appointee shall be considered qualified to hold the office or employment, without acquiring a bond, on the date the oath of office is taken, certified, and filed as required by law.
2. An officer, employee, or appointee shall have the employee dishonesty and faithful performance of duty policy in effect before the individual’s term of office or employment and the officer, employee or appointee shall not commence the discharge of duties until coverage is documented.
3. All officers, employees, or appointees who would otherwise be required to file a bond before commencing the discharge of duties shall be covered by and are subject to the employee dishonesty and faithful performance of duty policy instead of a surety bond requirement.
4. The coverage amount for an officer, employee, or appointee under an employee dishonesty and faithful performance of duty policy shall be equal to or greater than the maximum amount of the bond otherwise required by law.
5. Elected officials, prior to taking the oath of office and holding office, shall obtain approval of the intent to use the Ohio Plan coverage agreement and affirm that the public entity’s coverage complies with R.C. 3.061. Said approval shall be obtained by the City of Garfield Heights, in Cuyahoga County.

WHEREAS, the City’s “employee dishonesty and faithful performance of duty policy” through the Ohio Plan coverage document complies with R.C. 3.061.

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

SECTION 1. The Council hereby authorizes the City and the Finance Director to purchase an "employee dishonesty and faithful performance of duty policy" through the Ohio Plan to provide coverage for those officers, employees, or appointees who are otherwise required by law to acquire a surety bond before entering upon the discharge of public duties.

SECTION 2. The coverage amount for an officer, employee, or appointee under an employee dishonesty and faithful performance of duty insurance policy shall be equal to or greater than \$250,000.

SECTION 3. The Finance Director is authorized to affect all policies and procedures necessary to carry out this Ordinance and administer the terms of the employee dishonesty and faithful performance of duty policy in accordance with this Ordinance. The Finance Director is further authorized and directed to issue her vouchers of the City for the purposes stated in Section 1. hereof, 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 of City Council and approval by the Mayor; otherwise from and after the earliest period allowed by law.

PASSED: 4-22-2024

APPROVED: Mark A. Blum
MAYOR

ATTEST: Sottie Overly
CLERK OF COUNCIL

Amy Johnson
PRESIDENT OF COUNCIL

EFFECTIVE DATE: _____

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

ORDINANCE NO.: 27-2024

SPONSORED BY: MAYOR MATTHEW BURKE

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH OHM ADVISORS TO PROVIDE ECONOMIC DEVELOPMENT / PLANNING SERVICES TO THE CITY OF GARFIELD HEIGHTS FOR 2024, 2025 AND 2026

WHEREAS, the City of Garfield Heights desires to enter into an agreement with OHM Advisors to expand the scope of Economic Development/Planning services to the City for 2024, 2025, and 2026; and

WHEREAS, this matter was brought before Council and approved in Ordinance 80-2022, but has since been renegotiated and is being resubmitted to Council for approval with the key amendment being that OHM has increased the amount of work hours provided to the City on a weekly-basis.

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 with OHM Advisors to provide Economic Development/Planning services to the City of Garfield Heights for 2024, 2025 and 2026 as delineated in Exhibit A attached hereto and made a part hereof as if fully rewritten herein.

SECTION 2. The Finance Director is hereby authorized and directed to issue her vouchers of the City for the purposes stated 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 immediate preservation and protection of the public peace, health, safety, and general welfare of the inhabitants of the City of Garfield Heights and shall take effect and be in full force immediately upon its adoption by this Council and approval by the Mayor, otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

ATTEST: Lorraine Quenby
CLERK OF COUNCIL

Amy Johnson
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024

April 12, 2024

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

**Re: Economic Development / Planning Services
Proposal #22215A**

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
Identification	1
Scope of Services	2
Project Area	2
Assumptions	2
Contract Term	3
Termination Clause	4
Terms and Conditions	4
Authorization	4

Identification

The parties of the Agreement shall be referred to within this document as follows:

- “Municipality” shall refer to the City of Garfield Heights, Cuyahoga County, Ohio
- “OHM” shall refer to Orchard, Hiltz & McCliment, Inc., dba OHM Advisors

OHM Advisors®

6001 EUCLID AVENUE SUITE 130
CLEVELAND OHIO 44103

T 216.865.1335

OHM-Advisors.com



Scope of Services

OHM is pleased to enter into a contract to assist the City of Garfield Heights with Economic Development (ED) and Planning Services. The purpose of the Economic Development Consultation Service is to identify the community's economic potential to attract and retain high quality businesses and development in the City. This service is intended to serve in helping guide policymakers, community's stakeholders, local businesses, and future investors. It will outline actionable goals and tactics that help to strengthen the economic vitality of Garfield Hts. By doing this, the strategy will help to align projects, programs, and policies to ensure the City's economic priorities are being addressed, and that these actions will not take place in a piecemeal fashion. This will help ensure the City's resources are used efficiently to plan for new growth and that future plans for development are targeted to areas in the community with the greatest economic potential.

Project Area

The project study area is the city limits of Garfield Heights with a focus on commercial corridors throughout the City.

Assumptions

The following assumptions have been made in preparing the approach. These assumptions not only shape the approach, but also the timeline and proposed cost.

1. The OHM Team will be led by John Lippus (Economic Development Strategist). Dave Krock will serve as the principal in charge for OHM Advisors.
2. OHM anticipates working closely with city staff and leadership, as well as community stakeholders to complete the scope of work.
3. OHM proposes to setup an Economic Development Task Force made up of city staff, leadership, and local stakeholders to guide a new ED strategy and decision-making process.

Task #1 Standard Economic Development Services:

- The following services are included in the fee shown:
 - Help identify and create new economic development projects to further the community's mission and to provide new opportunities for its citizens.
 - Coordinate with staff and help prepare effective strategies to develop local economy in coordination with key stakeholders and provide consultation on economic development issues.
 - Help identify and utilize creative funding opportunities in the private and public sectors to advance business and community projects. (upon request for City leadership establish relationship with municipal finance consulting firm)
 - Help staff to develop/maintain programs related to residential and commercial vacant properties.
 - Assist city administration, and public officials to promote economic development activities.
 - Assist with ED webpage redevelopment and maintaining updates.
 - Attend city council and planning commission meetings (as needed)
 - Respond to Economic Development RFQ's and RFP's – assist in the preparation of formal community presentations.



Contract Term

Contract Term shall commence on May 1, 2024, and terminate on December 31, 2026.

Termination Clause

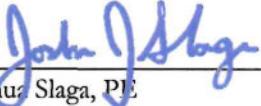
Upon 90 days advance written notice, either contracted party (Municipality or OHM), may request termination of the contract. The termination date shall be the last day of any month, a minimum of 90 days from the date of written notice. The timeframe shown in this Termination Clause shall take precedent and override the timeframe shown in the Terms and Conditions. All contract requirements and payment requirements shall apply through the final date of termination.

Terms and Conditions

The Terms and Conditions contained in the Annual Engineering contract per ordinance #104-2022 shall also apply to this contract.

Authorization

OHM Advisors



Joshua J. Slaga, PE
Principal

City of Garfield Heights



Name _____ Date _____
4/12/2024

Approved as to form:

Name _____ Date _____



FISCAL OFFICER'S CERTIFICATION

Date: April 19, 2024

Ordinance 27-2024

It is hereby certified that the amount, or estimated amount, identified as follows:

2024 - $\$57,600$ 2025 - $\$89,100$ 2026 - $\$91,800$

Required to meet the contract, agreement, obligation, payment or expenditure, identified in the attached ordinance or resolution, has been, or is now being, lawfully appropriated or authorized or directed for such purchase and is in the Treasury of the City, or is in the process of collection to the credit of fund, or funds identified as follow:

#223 - ARPA Fund

and is free from any obligation, encumbrance, or certification now outstanding.

Barbara Bivin
Fiscal Officer/Finance Director

ORDINANCE NO.:

28-2024

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

SPONSORED BY:

MAYOR MATTHEW A. BURKE

AN EMERGENCY ORDINANCE AUTHORIZING A JOB/ PAYROLL CREATION INCENTIVE GRANT FOR THE SAFETY COMPANY, LLC, DBA MTECH

WHEREAS, the City of Garfield Heights ("City") supports the pursuit of all reasonable and legitimate incentive measures to assist and encourage the retention and creation of jobs and employment opportunities for the continued economic growth in the City; and

WHEREAS, the Safety Company, LLC, dba MTech ("MTech") is expanding their operations and has approached the City to explore forms of economic assistance so that they may locate their operations within the City; and

WHEREAS, MTech would commence operations at 5642 Transportation Boulevard, Garfield Heights, OH 44125 ("Site"), effective June 1, 2024; and

WHEREAS, MTech will maintain its operations and current staffing levels at the Site, and is committed to creating twenty (20) full-time jobs within its first three years of operation in the City, with a projected annual payroll of \$1,300,000.00 (including bonuses); and

WHEREAS, the City would benefit from providing payroll tax incentives to MTech, by supporting the company's current expansion and long-term growth initiatives; and

WHEREAS, the Payroll Incentive Review Committee ("Committee"), composed of the Mayor, Law Director, Assistant Economic Development Director, and their designee(s), recommend that the City offer MTech a Job/Payroll Incentive Grant, for a period not to exceed ten (10) years, to provide incentives for job retention and creation within the City.

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

SECTION 1. The Mayor is hereby authorized to enter into a Job/Payroll Incentive Grant Agreement with MTech, expressly made a part hereof by reference and marked Exhibit A.

SECTION 2. The Finance Director is hereby authorized to expend such-non-tax funds of the City pursuant to and in accordance with the terms and conditions contained in the attached Agreement.

SECTION 3. The Committee shall annually review the Agreement (Exhibit A) and the Application (Exhibit B) and any and all documentation submitted pursuant thereto to determine compliance for the ten (10) year grant period ending May 31, 2034.

SECTION 4. Council declares this Ordinance to be an emergency measure necessary for the immediate 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: 4-22-2024

APPROVED: Mark A. B.L.

MAYOR

ATTEST: Lottie Overly

CLERK OF COUNCIL

Amy Johnson

PRESIDENT OF COUNCIL

EFFECTIVE DATE: 4-22-2024

GARFIELD HEIGHTS PAYROLL INCENTIVE AGREEMENT
BETWEEN THE CITY OF GARFIELD HEIGHTS AND
THE SAFETY COMPANY, LLC, DBA MTECH

This Garfield Heights Payroll Incentive Agreement (“Agreement”) is entered into this 15th day of April, 2024, by and between the City of Garfield Heights, an Ohio municipal corporation, by and through its Department of Economic Development, having an address at 5407 Turney Road, Garfield Heights, Ohio 44125 (hereinafter “City”) and The Safety Company, LLC, dba MTech, with address at 5642 Transportation Boulevard, Garfield Height, Ohio 44125 (hereinafter “Employer”).

WITNESSETH:

WHEREAS, The City may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention under Ohio Revised Code (ORC) Sections 718.15 and 718.151, and established a Garfield Heights Payroll Incentive Review Committee to provide incentives for attraction and growth of businesses throughout the City; and

WHEREAS, Employer is desirous of and intends to retain and/or create employment at 5642 Transportation Boulevard, Garfield Height, Ohio 44125, locating and maintaining its business in the City of Garfield Heights, effective June 1, 2024, (hereinafter “Project”); and

WHEREAS, Employer has submitted a GHPI application (“Application”) to the City in accordance with the GHPI Guidelines; and

WHEREAS, the City and Employer desire to set forth the terms and conditions by which the City will provide Employer with an annual GHPI Grant Award for each of the Grant Years (as hereinafter defined) in which Employer’s income taxes paid to and retained by the City for employees within the Project exceeds the Expected Revenue Benchmark (as hereinafter defined) for such grant year; and

WHEREAS, the “Grant Years” shall mean ten (10) consecutive calendar years beginning with calendar year 2024 and continuing through May 31, 2034; or unless other terms are negotiated; and

WHEREAS, the amount by which Employer’s Grant Year Municipal Income Tax paid and retained by the City of Garfield Heights exceeds the Expected Revenue Benchmark for the applicable Grant Year is referred to as the “Municipal Income Tax Differential” for such Grant Year in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Employer and City hereby agree as follows:

1. THE PROJECT.

Subject to the conditions contained in this Agreement, Employer shall proceed with the Project at 5642 Transportation Boulevard, Garfield Heights, Ohio 44125, and further described in Exhibit A attached hereto. Within 3 years of June 1, 2024, (the “Commencement Date”), Employer shall use its best efforts to create or cause to create twenty (20) new full-time employment positions at the Project location. Prior to the Commencement Date of the Project, Employer had twenty (20) full-time employees with a prior three-year annual average payroll of \$3,000,000.

2. ELIGIBILITY AND DETERMINATION OF GRANT AWARDS.

Employer is an approved applicant located within the City and will be eligible to receive a Grant Award for each Grant Year the Employer’s Grant Year Municipal Income Tax exceeds the Expected Revenue Benchmark for such Grant Year. Notwithstanding the immediately foregoing, grant cash awards for any one year shall only be awarded in the amount of \$100.00 and greater.

The annual GHPI Grant Award for each Grant Year shall be 50% of the Municipal Income Tax paid by Employer to and retained by the City with respect to the Municipal Income Tax Differential for such Grant Year. The GHPI Grant Award will be made by the City not later than June 30th following the calendar year in which the applicable Grant Year ended, provided that the Company has filed its Reconciliation of City Income Tax Withheld RITA Form 17 for each respective Grant Year.

A calculation of the GHPI Grant Award for the applicable Grant Year, an example of which is shown on in the program guidelines, shall be determined as follows:

Grant Year New Municipal Income Tax Paid and Retained by the City of Garfield Heights

Times

GHPI Grant Credit Awarded 50%

Equals Grant Award for that Grant Year

3. TERM.

This Agreement shall be for a term of ten (10) years commencing on April 15, 2024 and continuing through Grant Year 2034, ending May 31, 2034, provided Employer is in compliance with all terms and conditions hereof. This Agreement shall not exceed ten (10) years of GHPI Grant eligibility and the GHPI Grant authorized under this Agreement will be awarded only for those Grant Years in which Employer’s Grant Year income taxes paid to and retained by the City meets or exceeds the applicable Expected Revenue Benchmark.

4. GHPI REVIEW COMMITTEE.

The GHPI Review Committee composed of the Mayor, Law Director, Assistant Economic Development Director, or their designee(s), shall annually review this Agreement and the Application and any and all documentation submitted pursuant thereto to determine whether Employer is in continuing compliance with the terms and conditions of this Agreement and the GHPI Program. Employer shall provide to the GHPI Review Committee any information the GHPI Review Committee reasonably requests to evaluate Employer's compliance with this Agreement or Employer risks losing its GHPI Grant Award. The GHPI Review Committee is authorized by Employer by this Agreement to verify compliance by reviewing records on file with the City of Garfield Heights Division of Taxation. The GHPI Review Committee shall make recommendations regarding such compliance to the Finance Director.

5. GHPI TERMINATION.

If Employer fails to satisfy the terms and conditions of this Agreement after receiving written notice from the City and receiving thirty (30) calendar days following the notice to cure said default, the City, at its sole discretion, may cancel or modify the GHPI Grant for any reason. If the City terminates the GHPI Program, the GHPI Grant Award granted by this Agreement shall continue subject to Section 7 of this Agreement, so long as the Employer remains in compliance with the terms of this Agreement.

6. RECAPTURE OF GRANT AWARD.

During the term of this Agreement, Employer shall maintain its place of business within the corporate limits of the City of Garfield Heights. If, within three (3) years of the Employer's receipt of an annual GHPI Grant Award, the Employer relocates its business outside the corporate limits of the City of Garfield Heights resulting in reduction of Project employment and payroll, the Employer shall, within fifteen (15) calendar days of the receipt of a written request from the City, pay the City an amount equal to the sum of all annual grant awards received under this Agreement.

7. REPRESENTATIONS AND COVENANTS.

Employer represents as of the date of this Agreement, covenants during the term of this Agreement and, as a continuing condition to receiving the GHPI Grant, Employer shall:

- (A) Not discriminate against or refuse to employ any person on account of the race, color, or religion of such person;
- (B) Timely pay all federal, state and local taxes, assessments and other required governmental obligations;
- (C) File any reports required of Employer in connection with any City of Garfield Heights incentive agreements;
- (D) Maintain compliance with any lease agreement or other instrument governing the occupation or use of the real property at the Project location;

8. GHPI AWARD SUBJECT TO FURTHER COUNCIL APPROPRIATION.

Notwithstanding anything to the contrary set forth herein, the City's obligation to make any GHPI Grant Award to Employer is specifically subject to and conditioned upon valid annual appropriations by Garfield Heights City Council. Employer acknowledges that this annual appropriation is in addition to Ohio Revised Code (ORC) Sections 718.15 and 718.151 authorizing the implementation of the GHPI Program and this Agreement.

9. ASSIGNMENT.

This Agreement is not transferable or assignable by Employer without express written consent of the City.

10. ENTIRE AGREEMENT.

This Agreement, together with the Exhibits referred to and attached hereto constitute the sole agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting Employer's participation in the GHPI Program. City and Employer and their respective employees and agents have made no representations or promises with respect to this Agreement except as herein expressly set forth.

11. NOTICES.

Any notices or other communications required or permitted by this Agreement shall be in writing and shall be delivered personally or by a national courier service or by certified mail, postage prepaid, return receipt requested as follows:

To the City:

Department of Economic Development
City of Garfield Heights
5407 Turney Road
Garfield Heights, OH 44125

With Copy To:

Department of Law
City of Garfield Heights
5407 Turney Road
Garfield Heights, OH 44125

To the Employer:

Name: Christopher Cira
Title: Chief Executive Officer
Company: The Safety Company, LLC, dba MTech
Address: 5642 Transportation Boulevard
City, State Zip: Garfield Heights, Ohio 44125

12. SEVERABILITY.

If any provision of this Agreement or the application thereof to any person or circumstance shall be deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

13. PARTIES BOUND.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns when permitted by this Agreement.

14. GOVERNING LAW.

The laws of the State of Ohio shall govern this Agreement.

15. HEADINGS.

The headings of the sections contained in this Agreement are for convenience only and do not define, limit or construe the contents of such paragraphs or sections.

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY]

[THE SIGNATURE PAGE FOLLOWS ON THE NEXT PAGE]

[Exhibit A]

IN WITNESS WHEREOF, City and Employer hereto intending to be legally bound have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

Employer

The Safety Company, LLC, dba MTech

By: _____ Date _____
Christopher Cira
Chief Executive Officer
The Safety Company, LLC, dba MTech

CITY OF GARFIELD HEIGHTS,
An Ohio Municipal Corporation

By: _____ Date _____
Matthew A. Burke
Mayor

APPROVED AS TO CONTENT:

Department of Economic Development

APPROVED AS TO FORM:

Department of Law

Exhibit B



GARFIELD HEIGHTS PAYROLL INCENTIVE GRANT PROGRAM GUIDELINES

The Garfield Heights Payroll Incentive Grant Program is a performance-based grant program that encourages business attraction and expansion. The Garfield Heights Payroll Incentive Grant can be used in combination with local Community Reinvestment Area (CRA) programs, SBA 504 Financing, State and Jobs Ohio incentives.

The Ohio Revised Code (718.15 & 718.151) states that municipal corporations may grant a credit against its tax on income to a taxpayer that also received a tax credit under section 122.17 of the Revised Code. If the payroll incentive is granted under these sections, it shall be measured as a percentage of the income tax revenue derived from new or retained employees of the taxpayer and shall be for a term not to exceed 10 years. Before the municipality passes an ordinance allowing such a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

Eligibility and Criteria:

- Office or Manufacturing firms that create new payroll in the City of Garfield Heights and have NOT applied for or received Enterprise Zone Tax Abatement may be eligible for the Payroll Incentive Grant.
- New payroll does not include transfers from affiliated companies within Garfield Heights. Businesses new to the City of Garfield Heights and current businesses that are expanding payroll are eligible to participate.
- Businesses shall demonstrate with documentation that receiving the Payroll Incentive Grant is a contributing factor in the businesses decision to locate here or proceed with an expansion project.
- The Department of Economic Development and Mayor will examine the level of investment and the proposed increase in income tax dollars to determine the percentage and term of the Payroll Incentive Grant.
- Garfield Heights Payroll Incentive Grants are established by an agreement between the business and the City of Garfield Heights in accordance with suggested guidelines, City analysis, and subject to review and approval by Garfield Heights City Council.

Exhibit B

GARFIELD HEIGHTS PAYROLL INCENTIVE

GRANT PROGRAM GUIDELINES

The Garfield Heights Payroll Incentive Grant is calculated annually by multiplying the tax credit percentage against the amount of payroll taxes paid to the City of Garfield Heights in a prescribed year. For existing Garfield Heights businesses, the annual grant is calculated on only the portion of new payroll created over a predetermined base payroll during the prescribed term of the agreement.

Annual Payroll	Payroll Incentive Grant Credit*	Years
Up To \$999,999	20%	3
\$1,000,000 - 2,000,000	30%	3-4
\$2,000,001 – 3,000,000	40%	4
\$3,000,001 +	50%	10*

* The City of Garfield Heights retains the right to negotiate different terms and percentages for special projects with Garfield Heights City Council approval.

GARFIELD HEIGHTS INCENTIVE GRANT CALCULATION EXAMPLE

Payroll Created by Business	=	\$2,500,000
Payroll Tax Paid by Business	=	\$50,000 Annually
GHPI GRANT Percentage	=	40% (Grant = 40% of payroll taxes paid)
Dollar Amount of Grant	=	\$20,000 Annually
Term	=	4 years
Total Grant	=	\$80,000

FOR ADDITIONAL INFORMATION CONTACT

Janice Tubbs, Economic Development Assistant Director jtubbs@garfieldhts.org

Economic & Community Development Department

5407 Turney Road, Garfield Heights, Ohio 44125

Phone: 216-475-1100 ext. 2437

Exhibit B

Land, Bldg, Renovation, & New Construction: \$ _____

Machinery & Equipment: \$ _____

Other: \$ _____

CURRENT PAYROLL & PROJECTIONS/COMMITMENTS

Payroll for the Current Year: * \$ _____

Payroll for Previous Two (2) Years: \$ _____

Number of Employees Current: # _____

Number of Employees Previous Two (2) Years: # _____

Projected Payroll when Project Completed: \$ _____

Projected Payroll for Subsequent Year(s):

20_____, \$ _____ 20_____, \$ _____ 20_____, \$ _____

20_____, \$ _____ 20_____, \$ _____ 20_____, \$ _____

* Please include all employees from each Project Address that file a W-2 Tax Form or a 1099 Tax Form with the Regional Income Tax Agency (RITA).

Please attach all documentation that supports the information requested in the above section.

EXPLANATION OF NEED

Amount of Tax Credit Requested: Percent _____ Term _____

Please provide a brief explanation as to why receiving the tax credit is a major factor in the company's decision to go forward with the project at the proposed site and summarize all other State & Local Assistance requested or granted.

Application Fee:

- A non-refundable fee of \$ 500.00 is to be submitted with this application. A copy of the application will be attached to the final Payroll Incentive Grant Agreement, which must be submitted to City Council for approval.

Exhibit B

Certification of Information:

Submission of this application expressly authorizes the City of Garfield Heights to contact any agency to confirm the statements contained herein. The Applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is subject to all penalties for falsification provided under law.

Signature _____

Printed Name _____

Title _____

Date _____

FOR ADDITIONAL INFORMATION CONTACT

Janice Tubbs, Economic Development Assistant Director
jtubbs@garfieldhts.org

Economic & Community Development Department
5407 Turney Road, Garfield Heights, Ohio 44125

Phone: 216-475-1100 ext. 2437

Vote Outcome: Passed
Yes: 7 No: 0
Adopted Date: 4-22-2024
Effective Date: 4-22-2024

RESOLUTION NO.: 08-2024

SPONSORED BY: MAYOR MATTHEW A. BURKE

AN EMERGENCY RESOLUTION RATIFYING AN APPOINTMENT BY THE MAYOR OF NORMA BANKS AS A MEMBER OF THE ZONING BOARD OF APPEALS OF THE CITY OF GARFIELD HEIGHTS, OHIO, FOR THE TERM COMMENCING IMMEDIATELY AND ENDING DECEMBER 31, 2028

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

SECTION 1. The appointment of Norma Banks to the Zoning Board of Appeals of the City of Garfield Heights, Ohio, for the term commencing immediately, and ending December 31, 2028, is hereby ratified and approved by this Council.

SECTION 2. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, safety, health and welfare of the citizens of the City of Garfield Heights, Ohio and to enable the Zoning Board of Appeals of the City of Garfield Heights, Ohio to function as prescribed by law and the City Charter, and shall be in full force and effect from and after its passage and approval by the Mayor, otherwise at the earliest period allowed by law.

PASSED: 4-22-2024

APPROVED: Matthew A. Burke
MAYOR

Amy Johnson
PRESIDENT OF COUNCIL

ATTEST: Lottie O'neill
CLERK OF COUNCIL

EFFECTIVE DATE: 4-22-2024