



CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • BILL LAUTAR, VICE MAYOR
BRUCE E. DUKE • JACQUE FISHER • TONY KLEPACZ • ROBERT SCOTT • JOSEPH D. WANAMAKER

KETTERING COUNCIL AGENDA

January 14, 2020

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M. **WORKSHOP** Kettering Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

SWEARING IN OF ELECTED OFFICIALS

Rob Scott- District 1- Term ending 12/31/23 (to be sworn in by Mayor Don Patterson)
Joe Wanamaker- District 2- Term ending 12/31/23 (to be sworn in by Mayor Don Patterson)
Tony Klepacz- District 3- Term ending 12/31/23 (to be sworn in by Mayor Don Patterson)
Bruce Duke- District 4- Term ending 12/31/23 (to be sworn in by Mayor Don Patterson)

APPOINTMENT OF VICE MAYOR (TERM ENDING 12/31/21)

APPROVAL OF MINUTES

December 17, 2019- Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION

APPOINTMENTS- 2020 COUNCIL COMMITTEES

Long Range Planning- Mr. Scott, Chair/ Mrs. Fisher
Intergovernmental/ Interagency Relations- Mr. Duke, Chair/ Mr. Lautar
Community Relations & Promotions- Mrs. Fisher, Chair/ Mr. Klepacz
Finance & Personnel- Mr. Klepacz, Chair/ Mr. Duke
Public Health & Safety- Mr. Lautar, Chair/ Mr. Wanamaker
Public Service- Mr. Wanamaker, Chair/ Mr. Scott

RESOLUTIONS OF APPRECIATION- BOARD AND COMMISSION MEMBERS

Tyann Stewart- Board of Community Relations

APPOINTMENTS- BOARD AND COMMISSION MEMBERS

Sister City Committee

Mary Lou Meers, Sue Fullenkamp, Joyce Conner, Ed Hatch, Andrew Rathweg (Terms ending 12/31/22)

Kettering Arts Council

Elom Dossa (Term ending 12/31/20)

Pat Higgins, Christian Davell, Tracy McElfresh, Michael Weber, Meghan Thomas (Terms ending 12/31/21)

Board of Zoning Appeals

Bob Parks (Term ending 12/31/24)

Planning Commission

Richard Schultze (Term ending 12/31/24)

Volunteer Advisory Council

Kari Basson, Nancy Byrd (Terms ending 12/31/22)

Personnel Board of Appeals

Jeffery Mullins, William Linesch (Terms ending 12/31/20)

Civil Service Commission

William Linesch (Term ending 12/31/25)

Parks, Recreation and Cultural Arts Advisory Board

Carrie Kihn (Term ending 12/31/24)

Board of Tax Review

William Forsthoefel, Cynthia Platt (Terms ending 12/31/21)

Partners for Healthy Youth Advisory Board

Kari Basson, Andrea White (Terms ending 12/31/22)

Board of Plumbers' Registry

Ben Shannon (Term ending 12/31/21)

PUBLIC HEARINGS

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

RESOLUTIONS

1. Authorizing payment of 2020 membership dues to Miami Valley Regional Planning Commission.
2. Authorizing the City Manager to advertise for bids and to contract for the 2020 Curb, Sidewalk and Drive Approach Repair Program (Project No. 05-120).
3. Ratifying a contract for street light maintenance.
4. Authorizing the City Manager to advertise for bids and to contract for the Ackerman Boulevard Improvements Project, City Project No. 02-138G.
5. Authorizing the City Manager to use competitive bargaining and negotiated quotes and to contract for engineering design services for the Ansel Drive Bridge Rehabilitation Project, City Project No. 03-947 (ODOT Project MOT- Ansel Bridge, PID 111589).
6. Authorizing the City Manager to advertise for bids and to contract for Kettering Traffic Signal Replacements-Phase 2, City Project No. 02-005C (ODOT Project MOT- Kettering Signals- Phase 2, PID 100455).
7. Authorizing the City Manager to use competitive bargaining and negotiated quotes and to contract for right-of-way acquisition services.
8. Authorizing completion of Ohio Department of Transportation ("ODOT") Project MOT SR 48 6.95, PID 103422, City Project No. 02-100W, within the City of Kettering and authorizing the City Manager to enter into one or more related contracts with ODOT.
9. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for the 2020 Street Tree Installation Project, City Project No. 02-050L.
10. Authorizing the City Manager to advertise for bids and to contract for the Wilmington Pike Improvements Project, City Project No. 02-108R (ODOT Project MOT-Wilmington Pike Improvements, PID 105752).

- 11. Authorizing the City Manager to advertise for bids and/or use competitive bargaining and negotiated quotes and to contract for the 2020 Street Maintenance Program.
- 12. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for furniture, fixtures, and equipment for the Kettering Police Station renovation.
- 13. Ratifying a contract with Brumbaugh Construction for renovation of the Kettering Police Station.

ORDINANCES IN FIRST READING

- 14. An ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$8,300,000 for the purpose of paying the costs of constructing, renovating, improving, equipping and furnishing the municipal police station headquarters and providing necessary site improvements thereto and acquiring, installing and replacing the HVAC system, mechanical equipment and related apparatus, together with all necessary appurtenances thereto, and declaring an emergency.
- 15. To rezone 4745 Hempstead Station Drive (Planning Commission Case No. PC-17-035).

CERTIFICATIONS AND PETITIONS

MANAGER’S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2020

January 14	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
January 15	8:00 a.m.	Volunteer Advisory Council
January 20	All Day	Government Center Closed
January 27	7:00 p.m. 7:30 p.m.	Board of Zoning Appeals Sister Cities
January 28	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting

Resolution

No. 10393-20

**ACKNOWLEDGMENT OF SERVICE AND
EXPRESSION OF APPRECIATION TO
TYANN STEWART
BOARD OF COMMUNITY RELATIONS**

WHEREAS: Tyann Stewart earnestly supported the goals of the Board of Community Relations to promote the importance of fair housing and equal opportunity for all residents; and

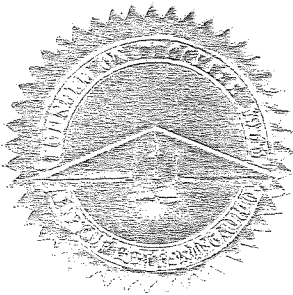
WHEREAS: Tyann worked diligently on the Board of Community Relations programs and community events to improve intergroup relations and foster positive community relations; and

WHEREAS: Tyann demonstrated understanding and appreciation of maintaining an inclusive community that provides equal opportunities and respect for all persons; and

WHEREAS: The Council of the City of Kettering wishes to acknowledge the personal sacrifice in the giving of her time and talents for the betterment of the community and the benefit of all citizens.

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio:

Section 1. The Council of the City of Kettering, on behalf of itself and the City Administration, does hereby commend Tyann Stewart for her service on the Board of Community Relations and hereby extends its appreciation on behalf of the community.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Kettering, Ohio, to be affixed this 14th day of January in the Year of our Lord, Two Thousand Twenty.

DONALD E. PATTERSON
Mayor of the City of Kettering, Ohio

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING PAYMENT OF 2020 MEMBERSHIP DUES
TO MIAMI VALLEY REGIONAL PLANNING
COMMISSION**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to pay to Miami Valley Regional Planning Commission the City's 2020 annual membership dues in the amount of \$25,620.16.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution shall take effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$25,620.16
Amount Budgeted: \$26,000.00
Acct. No.: 0500-72210

(Requested by: City Manager's Office)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR BIDS AND TO CONTRACT FOR THE 2020 CURB, SIDEWALK AND DRIVE APPROACH REPAIR PROGRAM (PROJECT NO. 05-120)

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to advertise for bids and to enter into one or more contracts for the 2020 Curb, Sidewalk and Drive Approach Repair Program (Project No. 05-120), in accordance with Chapter 152 of the Kettering Administrative Code, entitled Purchases and Contracts. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. Bids for such project shall be in accordance with the specifications on file in the Department of Finance, Office of the Purchasing Manager. Bidding may be conducted electronically. The bids shall be opened at the time and place named in the advertisement for bids, unless extended by the City; or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project in which event the time for opening of bids shall be extended one week, with no further advertising of bids required.

Section 3. The City of Kettering shall and does reserve the right (a) to reject any or all bids so received, (b) to waive any irregularities in a bid, (c) to hold any bid up to sixty (60) days unless the time for awarding the contract is extended by mutual consent of the City and the bidder whose bid the City subsequently accepts or, (d) to accept that bid which, in the judgment of the City Manager, is in the best interest of the City.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$750,000.00
Amount Budgeted: \$750,000.00
Acct. No.: 5212-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**RATIFYING A CONTRACT FOR STREET LIGHT
MAINTENANCE**

WHEREAS, in 2019 the City Manager entered into a contract for street light maintenance, the cost of which was estimated to be less than the threshold requiring approval by City Council; and

WHEREAS, the contract has options to renew for 2020 and 2021; and

WHEREAS, it is anticipated that costs during 2020 will exceed the threshold requiring approval by City Council;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kettering, State of Ohio, that:

Section 1. The contract for street light maintenance with Capital Electric Line Builders dated on or about January 2, 2019 is ratified. The City Manager is authorized to sign any amendments or extensions (renewals) thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$30,000.00
Amount Budgeted: \$30,000.00
Acct. No. 0950-72350

(Requested by: Engineering Department)

**CITY OF KETTERING, OHIO
A RESOLUTION**

By:

No.

**AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR
BIDS AND TO CONTRACT FOR THE ACKERMAN BOULEVARD
IMPROVEMENTS PROJECT, CITY PROJECT NO. 02-138G**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to advertise for bids and to enter into one or more contracts for the Ackerman Boulevard Improvements project, from East Dorothy Lane to East Stroop Road, City Project No. 02-138G, in accordance with Chapter 152 of the Kettering Administrative Code, entitled Purchases and Contracts. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. Bids for such project shall be in accordance with the specifications on file in the Department of Finance, office of the Purchasing Manager. Bidding may be conducted electronically. The bids shall be opened at the time and place named in the advertisement for bids, unless extended by the City; or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project in which event the time for opening of bids shall be extended one week, with no further advertising of bids required.

Section 3. The City of Kettering shall and does reserve the right (a) to reject any or all bids so received, (b) to waive any irregularities in a bid, (c) to hold any bid up to sixty (60) days unless the time for awarding the contract is extended by mutual consent of the City and the bidder whose bid the City subsequently accepts or, (d) to accept that bid which in the judgment of the City Manager is in the best interest of the City.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution shall take effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$650,000.00
Amount Budgeted: \$650,000.00
Acct. No.: 5228-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES AND TO CONTRACT FOR ENGINEERING DESIGN SERVICES FOR THE ANSEL DRIVE BRIDGE REHABILITATION PROJECT, CITY PROJECT NO. 03-947 (ODOT PROJECT MOT-ANSEL BRIDGE, PID 111589)

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for engineering design services for the Ansel Drive Bridge Rehabilitation Project, City Project No. 03-947 (ODOT Project MOT-Ansel Bridge, PID 111589). The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$80,000.00
Amount Budgeted: \$80,000.00
Acct. No.: 5000-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO
A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ADVERTISE
FOR BIDS AND TO CONTRACT FOR KETTERING
TRAFFIC SIGNAL REPLACEMENTS – PHASE 2, CITY
PROJECT NO. 02-005C (ODOT PROJECT MOT-
KETTERING SIGNALS – PHASE 2, PID 100455)**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to advertise for bids and to enter into one or more contracts for Kettering Traffic Signal Replacements – Phase 2, City Project No. 02-005C (ODOT Project MOT – Kettering Signals – Phase 2, PID 100455), in accordance with Chapter 152 of the Kettering Administrative Code, entitled Purchases and Contracts. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. Bids for such project shall be in accordance with the specifications on file in the Department of Finance, office of the Purchasing Manager. Bidding may be conducted electronically. The bids shall be opened at the time and place named in the advertisement for bids, unless extended by the City; or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project in which event the time for opening of bids shall be extended one week, with no further advertising of bids required.

Section 3. The City of Kettering shall and does reserve the right (a) to reject any or all bids so received, (b) to waive any irregularities in a bid, (c) to hold any bid up to sixty (60) days unless the time for awarding the contract is extended by mutual consent of the City and the bidder whose bid the City subsequently accepts or, (d) to accept that bid which, in the judgment of the City Manager, is in the best interest of the City.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$1,586,000.00
Amount Budgeted: \$1,586,000.00
Account No.: 5106-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES AND TO CONTRACT FOR RIGHT-OF-WAY ACQUISITION SERVICES

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for right-of-way acquisition services for the projects listed below:

1. Kettering Traffic Signal Replacements – Phase 3, City Project No. 02-005D (ODOT Project MOT-Kettering Traffic Signal Replacements – Phase 3, PID 105950);
2. Hewitt Avenue Bikeway Connector, City Project No. 05-004H (ODOT Project MOT-Hewitt Bikeway Connector, PID 105751).

The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Kettering Traffic Signals Repl. – Phase 3
Estimated Cost: \$25,000.00
Amount Budgeted: \$25,000.00
Acct. No.: 5100-77750

Hewitt Ave Bikeway Connector
Estimated Cost: \$25,000.00
Amount Budgeted: \$25,000.00
Acct. No.: 5200-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING COMPLETION OF OHIO DEPARTMENT OF
TRANSPORTATION (“ODOT”) PROJECT MOT SR 48 6.95, PID
103422, CITY PROJECT NO. 02-100W, WITHIN THE CITY OF
KETTERING AND AUTHORIZING THE CITY MANAGER TO
ENTER INTO ONE OR MORE RELATED CONTRACTS WITH
ODOT**

WHEREAS, ODOT has determined the need for mill and fill with asphalt concrete on State Route 48, Straight Line Mile 6.95 to 8.67, more or less, within the City of Kettering, Montgomery County, Ohio, ODOT Project MOT SR 48 6.95, PID 103422, City Project No. 02-100W (the “Project”);

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Council finds that the Project is in the public interest and gives consent to ODOT to complete the Project. The City Manager is authorized to cooperate with ODOT in execution of the Project.

Section 2. In relation to the Project:

The City agrees to participate in the cost of the Project;

The City further agrees to pay 100% of the cost of those features requested by the City which are determined by the State and Federal Highway Administration to be unnecessary for the Project;

The City further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. ODOT shall not approve a change order or extra work contract until it first gives notice, in writing, to the City. The City shall contribute its share of the cost of these items in accordance with other sections herein;

The City further agrees to pay 100% of the cost to install and/or repair curb ramps at all necessary intersections to ensure compliance with the Americans with Disabilities Act.

Section 3. The City Manager is authorized to enter into and execute contracts with ODOT which are necessary to develop plans for and to complete the Project; and to execute contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Upon request of ODOT, the City Manager is also authorized to execute any appropriate documents to affect the assignment of all rights, title, and interest of the City to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

Section 4. The City agrees that all right-of-way required for the described Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs.

The City further agrees that all utility accommodation, relocation and reimbursement for the Project, if any, will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 5. Upon completion of the Project, and unless otherwise agreed, the City will: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 6. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$1,200,000.00
Amount Budgeted: \$1,200,000.00
Account No.: 2070-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR THE 2020 STREET TREE INSTALLATION PROJECT, CITY
PROJECT NO. 02-050L**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures to enter into one or more contracts for the 2020 Street Tree Installation Project, City Project No. 02-050L. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$40,000.00
Amount Budgeted: \$40,000.00
Account No.: 6500-77750

(Requested by: Engineering Department)

**CITY OF KETTERING, OHIO
A RESOLUTION**

By:

No.

**AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR
BIDS AND TO CONTRACT FOR THE WILMINGTON PIKE
IMPROVEMENTS PROJECT, CITY PROJECT NO. 02-108R (ODOT
PROJECT MOT-WILMINGTON PIKE IMPROVEMENTS, PID
105752)**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to advertise for bids and to enter into one or more contracts for the Wilmington Pike Improvements project, from East Stroop Road to the southern corporation limit, City Project No. 02-108R (ODOT Project MOT-Wilmington Pike Improvements, PID 105752), in accordance with Chapter 152 of the Kettering Administrative Code, entitled Purchases and Contracts. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. Bids for such project shall be in accordance with the specifications on file in the Department of Finance, office of the Purchasing Manager. Bidding may be conducted electronically. The bids shall be opened at the time and place named in the advertisement for bids, unless extended by the City; or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project in which event the time for opening of bids shall be extended one week, with no further advertising of bids required.

Section 3. The City of Kettering shall and does reserve the right (a) to reject any or all bids so received, (b) to waive any irregularities in a bid, (c) to hold any bid up to sixty (60) days unless the time for awarding the contract is extended by mutual consent of the City and the bidder whose bid the City subsequently accepts or, (d) to accept that bid which in the judgment of the City Manager is in the best interest of the City.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$1,566,000.00
Amount Budgeted: \$1,566,000.00
Acct. No.: 5226-77750

(Requested by: Engineering Department)

**CITY OF KETTERING, OHIO
A RESOLUTION**

By:

No.

**AUTHORIZING THE CITY MANAGER TO ADVERTISE
FOR BIDS AND/OR USE COMPETITIVE BARGAINING
AND NEGOTIATED QUOTES AND TO CONTRACT FOR
THE 2020 STREET MAINTENANCE PROGRAM**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to advertise for bids and/or use competitive bargaining and negotiated quotes, as deemed by the City Manager to be most advantageous to the City, and enter into one or more contracts for the 2020 Street Maintenance Program, a summary of which is attached hereto as Exhibit "A". The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. Bids or competitive bargaining and negotiated quotes for such program shall be in accordance with the specifications on file in the Department of Finance, office of the Purchasing Manager. Bidding may be conducted electronically. Bids shall be opened at the time and place named in the advertisement for bids, unless extended by the City; or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project in which event the time for opening of bids shall be extended one week, with no further advertising of bids required. Agreements made as a result of competitive bargaining or negotiated quotes shall be as prescribed in the procedures in the purchasing regulations issued by the City Manager.

Section 3. The City of Kettering shall and does reserve the right (a) to reject any or all bids so received, (b) to waive any irregularities in a bid, (c) to hold any bid up to sixty (60) days unless the time for awarding the contract is extended by mutual consent of the City and the bidder whose bid the City subsequently accepts or, (d) to accept that bid which in the judgment of the City Manager is in the best interest of the City.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$1,625,000.00
Amount Budgeted: \$1,625,000.00
Account No.: See attached

(Requested by: Engineering Department)

EXHIBIT A

(2 total pages, including this page)

PROJECTS (SEPARATED BY PROPOSED CONTRACTS)	PROJECT NUMBERS	DOLLARS	ACCOUNT NO.
Asphalt Resurfacing General	04-120	\$825,000.00	5218-77750
Thoroughfare Improvements			
- Schantz Avenue	04-120	\$145,000.00	5228-77750
- Forrer Blvd (Wilmington to Smithville)	04-120	\$140,000.00	5228-77750
- Swigert Road (East Rahn to Corp.)	04-120	\$80,000.00	5228-77750
Pavement Management System	04-000D	\$50,000.00	5222-77750
Total Project Cost		\$1,240,000.00	
Concrete Repair Program	04-420	\$100,000.00	5220-77750
ADA Curb Ramp Program	04-620	\$125,000.00	5210-77750
Total Project Cost		\$225,000.00	
Miscellaneous Roadway	04-000	\$25,000.00	5201-77750
Research Blvd (835) Concrete Median Replacement	02-148D	\$135,000.00	2070-77750

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR FURNITURE, FIXTURES, AND EQUIPMENT FOR THE
KETTERING POLICE STATION RENOVATION**

BE IT RESOLVED by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for furniture, fixtures, and equipment and related services for the Kettering Police Station renovation. The City Manager is further authorized to sign any additional amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$529,000.00
Amount Budgeted: \$529,000.00
Account No.: 6623-77750

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**RATIFYING A CONTRACT WITH BRUMBAUGH
CONSTRUCTION FOR RENOVATION OF THE KETTERING
POLICE STATION**

WHEREAS, in 2019 the City Manager entered into a construction manager at risk type contract with Brumbaugh Construction for renovation of the Kettering Police Station with a design phase and a construction phase ("Contract"). The Contract allowed the City to terminate the Contract at the end of the design phase if the City was not satisfied with the resulting design or proposed construction costs and schedule; and

WHEREAS, being satisfied with the design and the proposed construction costs and schedule, the City desires to proceed with the renovation;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kettering, State of Ohio, that:

Section 1. The Contract is ratified. Further, pursuant to Subsection "I" of Section 152.02 of the Codified Ordinances of the City of Kettering, the City Manager is hereby authorized to enter into an amendment to the Contract and to proceed with renovations to the Kettering Police Station. The City Manager is further authorized to sign any additional amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$7,336,867.00
Amount Budgeted: \$7,336,867.00
Account No.: 6623-77750

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

AN EMERGENCY ORDINANCE

By:

No.

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$8,300,000 FOR THE PURPOSE OF PAYING THE COSTS OF CONSTRUCTING, RENOVATING, IMPROVING, EQUIPPING AND FURNISHING THE MUNICIPAL POLICE STATION HEADQUARTERS AND PROVIDING NECESSARY SITE IMPROVEMENTS THERETO AND ACQUIRING, INSTALLING AND REPLACING THE HVAC SYSTEM, MECHANICAL EQUIPMENT AND RELATED APPARATUS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, this City Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 2 and the maximum maturity of the Bonds described in Section 2; and

WHEREAS, the Director of Finance has certified to this City Council that the estimated life or period of usefulness of the Improvement is at least five (5) years and that the maximum maturity of the Bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kettering, Montgomery County, Ohio, at least five members concurring, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

“Authorized Denominations” means the minimum denomination of \$5,000 or any integral multiple in excess thereof.

“Bond Proceedings” means, collectively, this Ordinance, the Certificate of Award, the Continuing Disclosure Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds, and to the extent it is determined necessary by the Director of Finance in the Certificate of Award, the Purchase Agreement and the Registrar Agreement.

“Bond Register” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“Bond Registrar” means the Director of Finance or a bank or trust company authorized to do business in the State of Ohio, as designated by the Director of Finance in the Certificate of Award pursuant to Section 4 and determined to be in the best financial interest of the City, as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until appointment of a successor Bond Registrar and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar.

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

“Book entry form” or “book entry system” means a form or system under which (a) the ownership of beneficial interests in the Bonds and the principal of and interest and any premium on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City and payable only to a Depository or its nominee as registered owner, with the certificates deposited with

and "immobilized" in the custody of the Depository or its designated 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 Bonds and that principal and interest.

"Certificate of Award" means the certificate authorized by Section 6, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

"City" means the City of Kettering, Ohio.

"City Manager" means the City Manager of the City or any person serving in an assistant, interim or acting capacity with respect to that office.

"Clerk of Council" means the Clerk of Council (also known as the Municipal Clerk) of the City or any person serving in an interim or acting capacity with respect to that office.

"Closing Date" means the date of physical delivery of, and payment of the purchase price for, the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Bonds in accordance with the Rule, as it may be modified from the form on file with the Clerk of Council and executed by the City Manager and the Director of Finance, all in accordance with Section 9(c).

"Depository" means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Bonds or the principal of and interest and any premium on the Bonds, and to effect transfers of the Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Director of Finance" means the Director of Finance of the City or any person serving in an interim or acting capacity with respect to that office.

"Financing Costs" shall have the meaning given in Section 133.01 of the Ohio Revised Code.

"Interest Payment Dates" means June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

"Mandatory Redemption Date" shall have the meaning set forth in Section 3(b).

"Mandatory Sinking Fund Redemption Requirements" shall have the meaning set forth in Section 3(e)(i).

"Original Purchaser" means the purchaser of the Bonds specified in the Certificate of Award.

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

“Principal Payment Dates” means December 1 in each of the years from and including 2020 to and including 2039; provided that the first Principal Payment Date may be deferred up to one year and the last Principal Payment Date may be advanced or deferred by such number of years as determined by the Director of Finance, and provided further that in no case shall the final Principal Payment Date exceed the maximum maturity limitation referred to in the preambles hereto, all of which determinations shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“Purchase Agreement” means the Bond Purchase Agreement, which to the extent it is determined necessary by the Director of Finance in the Certificate of Award, shall be between the City and the Original Purchaser, as it may be prepared, approved and executed by the City Manager and the Director of Finance, all in accordance with Section 6.

“Registrar Agreement” means the Bond Registrar Agreement, which to the extent it is determined necessary by the Director of Finance in the Certificate of Award, shall be between the City and the Bond Registrar, as it may be prepared, approved and executed by the City Manager and the Director of Finance, all in accordance with Section 4.

“Regulations” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“Rule” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“SEC” means the Securities and Exchange Commission.

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

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

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 2. Authorized Principal Amount and Purpose; Application of Proceeds. This City Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$8,300,000 (the “Bonds”) for the purpose of paying the costs of constructing, renovating, improving, equipping and furnishing the municipal police station headquarters and providing necessary site improvements thereto and acquiring, installing and replacing the HVAC system, mechanical equipment and related apparatus, together with all necessary appurtenances thereto (the “Improvement”). The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The aggregate principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be an amount determined by the Director of Finance in the Certificate of Award to be the aggregate principal amount of Bonds that is required to be issued at this time for the purpose stated in this Section 2, taking into account the costs of the Improvement, the estimates of the Financing Costs and the interest rates on the Bonds.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond

counsel, fees and expenses of any municipal advisor, paying agent and rating agency, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Director of Finance, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award and the Purchase Agreement (if any) may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award, and in the Purchase Agreement (if any) and/or the Registrar Agreement (if any) or accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than sixty (60) days prior to the Closing Date.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months) as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the determination of the best interest of and financially advantageous to the City, the Director of Finance shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a "Mandatory Redemption Date") and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year. The net interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or Mandatory Sinking Fund Redemption Requirements of those principal amounts of Bonds shall not exceed 6.00%.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the designated office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of

business on the 15th day of the calendar month next preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Director of Finance, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the "Mandatory Sinking Fund Redemption Requirements").

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Director of Finance, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Director of Finance, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject

to optional redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; provided that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Director of Finance to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

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

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

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to

the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Sections 3(d) and 5, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Finance is designated as initial Bond Registrar; provided, however, if following passage of this Ordinance, the Director of Finance determines that circumstances are such that it would be in the best economic interest of the City to appoint an alternate Bond Registrar, then the Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. To the extent that it is determined by the City Manager and the Director of Finance to be necessary in connection with the sale of the Bonds, such officials are each authorized and directed to sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Bond Registrar, in a form as is approved by the City Manager and the Director of Finance. The Registrar 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 City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Certificate of Award, and the Purchase Agreement (if any) and/or the Registrar Agreement (if any), except to the extent paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, and the Purchase Agreement (if any) and/or the Registrar Agreement (if any), from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating

agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

The Bond Registrar shall complete, authenticate, deliver and register a new Bond to replace a Bond lost, stolen, destroyed or mutilated upon receiving written instructions to do so from the Director of Finance together with evidence of indemnification of the City and the Bond Registrar from the registered owner of the Bond in a form satisfactory to the City and the Bond Registrar.

The Bond Registrar shall cancel any Bond surrendered to it pursuant to this Ordinance for payment or retirement or for replacement or transfer. Written reports of surrender and cancellation of any Bond shall be made by the Bond Registrar to the office of the Bond Registrar at least once each calendar year. Unless otherwise directed by the City or other lawful authority, canceled Bonds shall be retained and stored by the Bond Registrar for a period of seven years. After that time, or at any earlier time as authorized by the City, the canceled Bonds may, at the direction of the Director of Finance, be either returned to the City or destroyed by the Bond Registrar by shredding or cremation, and certificates of that destruction (describing the manner of that destruction) shall be provided by the Bond Registrar to the Director of Finance.

The Bond Registrar shall retain and store the Bond Register for seven years after payment of all of the Bonds. At any time and upon request by the City, the Bond Registrar shall permit the City to inspect the Bond Register and will provide the City with a copy of the Bond Register. Pursuant to Section 9.96 of the Revised Code the Bond Register is not a "public record" under Ohio law. In the event of a request to the Bond Registrar by any person other than the City for inspection of the Bond Register, the Bond Registrar shall notify the Director of Finance and will not permit that inspection unless it is approved by the Director of Finance, except that the Bond Registrar may permit an inspection pursuant to an order of a court of competent jurisdiction.

The Bond Registrar shall pay the principal of and interest on the Bonds in accordance with this Ordinance, but only from money deposited with the Bond Registrar by the City for that purpose. The City shall cause funds to be on deposit with the Bond Registrar in an amount sufficient and available to pay the interest, or principal and interest, then to be due no later than 10:00 a.m. (Ohio time) on the day on which that payment is to be made.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its designated office. Subject to the provisions of Sections 3(d) and 9(c), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall

complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Director of Finance determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section 5.

The Bonds 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 Bonds may be issued in the form of a single, fully registered Bond representing each maturity, and, if applicable, each interest rate within a maturity, and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent for that purpose, which may be the Bond Registrar; (ii) the beneficial owners of Bonds in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by 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 Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds 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 Bonds from the Depository, and shall cause Bond certificates in registered form and Authorized Denominations to be authenticated by the Bond Registrar 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 hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Director of Finance determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds to the Original Purchaser. The Bonds are to be sold at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other

terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance, the Certificate of Award and the Purchase Agreement (if any). The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Director of Finance is authorized to sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

To the extent it is determined necessary by the Director of Finance in the Certificate of Award, the City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in a form as is approved by the City Manager and the Director of Finance, providing for the sale to, and the purchase by, the Original Purchaser of the Bonds. The 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 City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

The Mayor, the City Manager, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, each are 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 actions of the Mayor, the City Manager, the Director of Finance, the Director of Law, the Clerk of Council or other City officials, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

Section 7. Provision for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, 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 Bonds when and as the same fall due.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and laws of the State of Ohio and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Bonds.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference 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 Bonds 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 Bonds 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 or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds 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 or penalties with respect to the Bonds, 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 with respect to the Bonds, 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds. The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is specifically authorized to designate the Bonds as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Section 9. Official Statement, Rating, Bond Insurance, Continuing Disclosure and Financing Costs.

(a) Primary Offering Disclosure -- Official Statement. The City Manager and the Director of Finance are each authorized and directed, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of an official statement relating to the original issuance of the Bonds in substantially the form as is now on file with the Clerk of Council, (ii) determine, and to certify or otherwise represent, when the official statement is to be "deemed final" (except for permitted omissions) by the City as of its date or is a final official statement for purposes of paragraph (b) of the Rule, (iii) use and distribute, or authorize the use and distribution of those official statements and any supplements thereto in connection with the original issuance of the Bonds, and (iv) complete and sign those official statements and any supplements thereto as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements and any supplements, as they may deem necessary or appropriate.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Director of Finance, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Director of Finance is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent otherwise paid or reimbursed pursuant to the Certificate of Award, and the Purchase Agreement (if any) and/or the Registrar Agreement (if any), from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Director of Finance is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Director of Finance determines to be necessary in connection with the obtaining of that bond insurance.

(c) Agreement to Provide Continuing Disclosure. For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The City Manager and the Director of Finance are each authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in substantially the form as is now on file with the Clerk of Council. The Continuing Disclosure 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 City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement or amendments thereto.

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Director of Finance shall consult with and obtain legal advice from, as appropriate, the Director of Law and bond or other qualified independent special counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

(d) Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid by the Original Purchaser and/or the Bond Registrar in accordance with the Certificate of Award, and the Purchase Agreement (if any) and/or the Registrar Agreement (if any), 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 Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 10. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed, to the extent they are not paid or

reimbursed pursuant to the Certificate of Award, and the Purchase Agreement (if any) and/or the Registrar Agreement (if any), 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. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 11. Municipal Advisor. The services of Baker Tilly Municipal Advisors, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, 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 municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Certificate of Award, and the Purchase Agreement (if any) and/or the Registrar Agreement (if any), 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. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditors of Greene County and Montgomery County, Ohio.

Section 13. Satisfaction of Conditions for Bond Issuance. This City 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 Bonds 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 Bonds 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 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no Charter, statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

Section 14. Compliance with Open Meeting Requirements. This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 15. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public interest of the City, and for the reason that it is necessary to issue and sell the Bonds as soon as possible in order to take advantage of favorable interest rates and realize a savings in interest costs and to timely enter into contracts for the construction and acquisition of the Improvement; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested By: Finance Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

TO REZONE 4745 HEMPSTEAD STATION DRIVE (PLANNING
COMMISSION CASE NO. PC-17-035)

WHEREAS, on March 19, 2018, after publication and issuance of notice as required by the zoning regulations of this City, a public hearing was conducted by the City of Kettering Planning Commission concerning an application to rezone three parcels of land to O-Office District: (1) 4745 Hempstead Station Drive (Auditor's Parcel No. N64 04416 0008) (the "City Parcel"); (2) 1725 East David Road (Auditor's Parcel No. N64 04526 002) (the "SAA Parcel"); and (3) 489 Hempstead Station Drive (Auditor's Parcel No. N64 03404 0031) (the "Vectren Parcel"); and

WHEREAS, the Planning Commission recommended approval of the proposed zoning change; and

WHEREAS, on April 10, 2018, after publication and issuance of notice as required by the zoning regulations of this City, this City Council held a public hearing with evidence presented by the Planning and Development Department along with the recommendation of the Planning Commission to approve the application, and all parties were afforded the opportunity to be heard and present evidence in support of their positions; and

WHEREAS, in Ordinance No. 4311-18 this City Council approved the application for rezoning the SAA Parcel and the Vectren Parcel but deferred making any decision regarding the City Parcel to a later date and that date has now arrived;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. Having considered the report and recommendation of the Planning Commission and the criteria set forth in Sections 1153.12.9, Consistency, through 1153.12.15, Other Factors, of Chapter 1153 of the Zoning Code, the staff report and evidence presented at the public hearing, sound planning and zoning practices, the City's adopted plans, goals, and policies, the intent of the Kettering Zoning Code, and the public health, safety and welfare requirements underlying the Zoning Code, City Council finds that the application for rezoning should be approved for the City Parcel.

Section 2. Based on the foregoing, the City Parcel is rezoned to O-Office District.

Section 3. As appropriate and necessary, the official Zoning Map of the City of Kettering, Ohio is hereby revised and amended to reflect the zone change; and Section 1133.02 of the Kettering Codified Ordinances, which adopts the Zoning Map by reference, is hereby reenacted effective as of the first effective date of this Ordinance so as to include the map revision in the Zoning Code. The Director of the Planning and Development Department is directed to make such appropriate revisions on the official Zoning Map of the City.

Section 4. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2020.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Planning and Development Department)