

# **Columbus City Bulletin**



**Bulletin 27**  
**July 03, 2004**

# Proceedings of City Council

Saturday, July 3, 2004



## SIGNING OF LEGISLATION

Unless otherwise noted, all legislation listed in this bulletin was signed by Council President Matt Habash, on the night of the Council meeting, Monday, *June 28, 2004*; by the Mayor, Michael B. Coleman, on Thursday, *July 01, 2004* and attested by the City Clerk, Andrea Blevins, prior to Bulletin publishing.

### **The City Bulletin Official Publication of the City of Columbus**

Published weekly under authority of the City Charter and direction of the City Clerk. The Office of Publication is the City Clerk's Office, 90 W. Broad Street, Columbus, Ohio 43215, 614-645-7380. The City Bulletin contains the official report of the proceedings of Council. The Bulletin also contains all ordinances and resolutions acted upon by council, civil service notices and announcements of examinations, advertisements for bids and requests for professional services, public notices; and details pertaining to official actions of all city departments. If noted within ordinance text, supplemental and support documents are available upon request to the City Clerk's Office.

# Council Journal (minutes)



# City of Columbus

## Journal - Final

### Columbus City Council

Office of City Clerk  
90 West Broad Street  
Columbus OH  
43215-9015  
columbuscitycouncil.org

***ELECTRONIC READING OF MEETING DOCUMENTS AVAILABLE DURING COUNCIL OFFICE HOURS. CLOSED CAPTIONING IS AVAILABLE IN COUNCIL CHAMBERS. ANY OTHER SPECIAL NEEDS REQUESTS SHOULD BE DIRECTED TO THE CITY CLERK'S OFFICE AT 645-7380 BY FRIDAY PRIOR TO THE COUNCIL MEETING.***

Monday, June 28, 2004

5:00 PM

Columbus City Council

Columbus City Council

Journal

June 28, 2004

#### **REGULAR MEETING NO. 38 OF COLUMBUS CITY COUNCIL, JUNE 28, 2004 at 5:00 P.M. IN COUNCIL CHAMBERS.**

#### **ROLL CALL**

Absent: 1 - President Pro-Tem Mentel

Present: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

#### **READING AND DISPOSAL OF THE JOURNAL**

**A motion was made by Ms. Tavares, seconded by Ms. Thomas, to Dispense with the reading of the Journal and Approve. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel

Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

#### **C0022-2004**

THE FOLLOWING COMMUNICATIONS WERE RECEIVED IN THE CITY CLERK'S OFFICE AS OF WEDNESDAY, JUNE 23, 2004:

New Type: C1, C2

To: Serene Inc  
1475 S Champion Av  
Columbus Ohio 43206  
Permit #: 79855180005

New Type: D1

To: Premier Broadcasting Co Inc  
DBA Masseys Pizza  
2491 Hilliard Rome Rd  
Columbus Ohio 43026  
Permit #: 70636190030

New Type: D2

To: Lindo Mexico Restaurant Inc  
DBA Lindo Mexico Restaurant  
3203 Sullivant Av  
Columbus Ohio 43204

Permit #: 5216798

New Type: C1, C2  
To: Hawkstone Associates Inc  
DBA OSU Citgo #18  
2825 Olentangy River Rd  
Columbus Ohio 43202  
Permit #: 36788970315

New Type: D2  
To: Ohio Dominican University  
Bldg 1 Fitzpatrick Hall Bsmt  
Bldg 2 Sansbury Hall 1st Fl  
Bldg 3 Hamilton Hall 1st Fl  
1216 Sunbury Rd  
Columbus Ohio 43219  
Permit #: 65173900005

Transfer Type: C1, C2  
To: J Conrads LLC  
DBA End Zone Beer & Wine Drive Thru  
500 Riverview Dr  
Columbus Ohio 43202  
From: Double D Beverage Services LLC  
DBA End Zone Beer & Wine Drive Thru  
500 Riverview Dr  
Columbus Ohio 43202  
Permit #: 4180164

Transfer Type: D2, D2X, D3, D3A  
To: Timiter Inc  
DBA Blue Diamond Lounge  
1980 Oakland Park Av 1st Fl & Patio  
Columbus Ohio 43224  
From: T G W Enterprises Inc  
DBA Blue Diamond Lounge  
1980 Oakland Park Av 1st Fl & Patio  
Columbus Ohio 43224  
Permit #: 8935562

Transfer Type: D1, D2, D3, D3A  
To: Marnad Inc  
DBA Guidos Pizzeria & Carryout  
5655 Emporium Sq  
Columbus Ohio 43231  
From: Excalibur Club Inc  
DBA Excalibur Club  
6223-25 Sunderland Dr & Patio  
Columbus Ohio 43229  
Gary L Jones Esq  
Permit #: 5559225

ADVERTISE 07/03/04  
RETURN 07/15/04

**Read and Filed**

## **ADDITIONS OR CORRECTIONS TO THE AGENDA**

ALL AGENDA ITEMS WERE TAKEN IN REGULAR ORDER WITH THE EXCEPTION OF THE EMERGENCY, TABLED AND 2ND READING OF 30-DAY LEGISLATION FINANCE AND ADMINISTRATION COMMITTEES WHICH WERE TAKEN OUT OF ORDER AND READ AT THE END OF THE AGENDA

*THE FOLLOWING ITEMS WERE REMOVED FROM THE CONSENT AGENDA  
AND VOTED ON LATER IN THE MEETING*

UTILITIES: 1022-2004

## **FIRST READING OF 30-DAY LEGISLATION**

### **SAFETY & JUDICIARY: MENTEL, CHR. BOYCE THOMAS HABASH**

**1109-2004** FR To authorize the City Attorney to enter into an agreement for special legal counsel services with representatives of the law firm of Chester, Willcox and Saxbe, LLP regarding the matter of the franchise renewal process for Insight Communications; to authorize the appropriation and expenditure of \$10,000.00 from the cable communications fund; and to waive the competitive bidding provisions of the Columbus City Codes. (\$10,000.00)

**Read for the First Time**

### **DEVELOPMENT: O'SHAUGHNESSY, CHR. BOYCE TAVARES HABASH**

**0979-2004** FR To accept the application (AN03-045RF) of Cynthia J. Irwin, et al. for the annexation of certain territory containing 1.6 ± Acres in Plain Township.

**Read for the First Time**

**0982-2004** FR To accept the application (AN03-048) of Pentecostal Assembly, Inc. for the annexation of certain territory containing 59.1 ± Acres in Franklin Township.

**Read for the First Time**

**0994-2004** FR To accept the application (AN04-002) of Lloyd A. Shaw, et al. for the annexation of certain territory containing 1.91 ± Acres in Plain Township.

**Read for the First Time**

**0995-2004** FR To accept the application (AN04-004R) of Rajim, LLC for the annexation of certain territory containing 1.7 ± Acres in Mifflin Township.

**Read for the First Time**

### **UTILITIES: THOMAS, CHR. MENTEL O'SHAUGHNESSY HABASH**

**0864-2004** FR To Authorize the Director of the Department of Public Utilities to enter into a professional services contract with Burgess & Niple, Limited, for O'Shaughnessy Dam Hydroelectric Facilities, for the Division of Water, to authorize the expenditure of \$102,600.00 from the Waterworks Enlargement Voted 1991 Bonds Fund (\$102,600.00)

**Read for the First Time**

**1019-2004** FR To authorize the Director of Public Utilities to modify and increase the

contract with the Operator Training Committee of Ohio (OTCO), for utility operations and maintenance training, for the Division of Water, and to authorize the expenditure of \$20,000.00 from Water Systems Operating Fund. (\$20,000.00)

**Read for the First Time**

## **CONSENT ACTIONS**

**A0069-2004** CA Appointment of Otto Beatty III, 600 S. Grant Avenue, Columbus, Ohio 43206 to serve on the Columbus Development Commission replacing Karen McCory with a new term expiration date of July 31, 2007. ( appointees resume on file in the Mayor's office).

**This Matter was Approved on the Consent Agenda.**

**A0070-2004** CA Appointment of Kay Onwukwe, Columbus, Ohio 43202 to serve on the Columbus Development Commission replacing vacant opening with a new term expiration date of July 31, 2007. ( appointees resume on file in the Mayor's office).

**This Matter was Approved on the Consent Agenda.**

**A0071-2004** CA Appointment of John A. Cooley, 104 East Tulane Road, Columbus, Ohio 43202-2220 to serve on the Columbus Development Commission replacing Paul Cianelli with a new term expiration date of July 31, 2007. ( appointees resume on file in the Mayor's office).

**This Matter was Approved on the Consent Agenda.**

## **SAFETY & JUDICIARY: MENTEL, CHR. BOYCE THOMAS HABASH**

**1012-2004** CA To authorize and direct the Director of the Department of Finance on behalf of the Franklin County Municipal Court Clerk to modify the agreement and issue a blanket purchase order to the National City Bank for the purpose of paying for banking services, to authorize the expenditure of \$78,000.00 from the General Fund, and to declare an emergency.(\$78,000.00)

**This Matter was Approved on the Consent Agenda.**

## **ADJOURNMENT**

**1030-2004** CA To authorize an appropriation of \$13,283.37 from the unappropriated monies in the FY2004 Bulletproof Vest Partnership grant fund. (\$13,283.37)

**This Matter was Approved on the Consent Agenda.**

**1086-2004** CA To authorize an appropriation of \$25,450.00 from the unappropriated balance of the Law Enforcement Contraband Seizure Fund, to purchase crime prevention safety materials for the Division of Police; and to declare an emergency; (\$25,450.00)

**This Matter was Approved on the Consent Agenda.**

**1010-2004** CA To authorize and direct the Finance Director to enter into one contract for the option to purchase Vehicle Washing Services for Fleet Management Division with Custom Detailing Inc., to authorize the expenditure of one dollar to establish the contract from the Purchasing/Contract Operation Fund. (\$1.00)

**This Matter was Approved on the Consent Agenda.**

**PUBLIC SERVICE & TRANSPORTATION: O'SHAUGHNESSY, CHR. SENSENBRENNER TAVARES HABASH**

**1026-2004** CA To authorize the Public Service Director to execute those documents required to allow one additional vehicular access point along Walcutt Road from that property identified as The Westbelt Business Park West on the plat of record in Plat Book 58, Page 75, Franklin County, Ohio, Recorder's Office; and to declare an emergency.

**This Matter was Approved on the Consent Agenda.**

**1073-2004** CA To authorize the Public Service Director to enter into an agreement with the Ohio Department of Transportation for the City to act as the Local Project Administrator for the Morse Road Phase II - Karl Road to Cleveland Avenue project for the Transportation Division, and to declare an emergency. (\$-0-)

**This Matter was Approved on the Consent Agenda.**

**1083-2004** CA To accept the plat titled HARTMAN PONDS SECTION 1, from INTRUST LAND DEVELOPMENT COMPANY, by FRANK CIPRIANO, President.

**This Matter was Approved on the Consent Agenda.**

**UTILITIES: THOMAS, CHR. MENDEL O'SHAUGHNESSY HABASH**

**0867-2004** CA To appropriate and authorize the City Auditor to transfer \$102,600.00 from the Water System Reserve Fund to the Waterworks Enlargement Voted 1991 Bonds Fund for the purpose of funding the O'Shaughnessy Dam Hydroelectric Facilities, for the Division of Water, and to declare an emergency. (\$102,600.00)

**This Matter was Approved on the Consent Agenda.**

**0945-2004** CA To authorize the Director of Public Utilities to modify the professional engineering services contract with Brown & Caldwell Ohio, for the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project; to authorize the appropriation, transfer and expenditure of \$107,838.00 from the Sewer System Reserve Fund to the Ohio Water Pollution Control Loan Fund; for the Division of Sewerage and Drainage. (\$107,838.000)

**This Matter was Approved on the Consent Agenda.**

**Passed The Consent Agenda**

**A motion was made by Ms. Tavares, seconded by Ms. Thomas, including all the preceding items marked as having been approved on the Consent Agenda. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mendel

Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**EMERGENCY, TABLED AND 2ND READING OF 30-DAY LEGISLATION****FINANCE: SENSENBRENNER, CHR. O'SHAUGHNESSY TAVARES HABASH**

**147X-2004** To adopt the 2005 Tax Budget and to authorize and direct the City Auditor to submit said budget to the County



**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Taken from the Table. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

*THIS WAS A TECHNICAL DEFEAT-TO BE RECONSIDERED ON 07/12/04*

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Adopted. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**159X-2004**

To accept the "Capital Improvements Program, 2004 - 2009," as described herein, as the primary guide for the Capital Improvements Budget ordinance.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Adopted. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1189-2004**

Authorizing the issuance of limited tax bonds in an amount not to exceed \$335,000 for the purpose of providing funds to currently refund certain outstanding general obligation bonds of the City. (\$335,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1170-2004**

Authorizing the issuance of unlimited tax bonds in the amount of \$46,320,000 for the Division of Transportation (\$46,320,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel

Absent@vote: 1 - Mr. Sensenbrenner

Affirmative: 5 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel

Absent@vote: 1 - Ms. O'Shaughnessy

Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1171-2004**

Authorizing the issuance of unlimited tax bonds in the amount of \$33,245,000 for the Division of Sewerage and Drainage - Sanitary (\$33,245,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel

Absent@vote: 1 - Ms. O'Shaughnessy

Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel

Absent@vote: 1 - Ms. O'Shaughnessy

Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1172-2004**

Authorizing the issuance of unlimited tax bonds in the amount of \$32,240,000 for the Division of Water (\$32,240,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel

Absent@vote: 1 - Ms. O'Shaughnessy

Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**1173-2004**

Authorizing the issuance of unlimited tax bonds in the amount of  
\$26,730,000 for recreation and parks (\$26,730,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Waived the 2nd Reading. The motion carried by the  
following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Approved. The motion carried by the following  
vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**1174-2004**

Authorizing the issuance of unlimited tax bonds in the amount of  
\$15,420,000 for the Division of Electricity (\$15,420,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Waived the 2nd Reading. The motion carried by the  
following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Approved. The motion carried by the following  
vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**1175-2004**

Authorizing the issuance of unlimited tax bonds in an amount not to exceed  
\$4,100,000 for the purpose of providing funds to currently refund certain  
outstanding general obligation bonds of the City. (\$4,100,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Waived the 2nd Reading. The motion carried by the  
following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Approved. The motion carried by the following  
vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**1176-2004**

Authorizing the issuance of unlimited tax bonds in the amount of \$2,380,000  
for refuse collection (\$2,380,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Waived the 2nd Reading. The motion carried by the  
following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Approved. The motion carried by the following  
vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**1177-2004**

Authorizing the issuance of limited tax bonds in the amount of \$45,835,000  
for transportation (\$45,835,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Waived the 2nd Reading. The motion carried by the  
following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
that this matter be Approved. The motion carried by the following  
vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
and President Habash

**1178-2004**

for Division of Sewerage and Drainage - storm sewers (\$33,515,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1179-2004**

Authorizing the issuance of limited tax bonds in the amount of \$32,120,000 for public safety (\$32,120,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1180-2004**

Authorizing the issuance of limited tax bonds in the amount of \$7,695,000 for refuse collection (\$7,695,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1182-2004**

Authorizing the issuance of limited tax bonds in the amount of \$6,645,000 for Northland Mall Acquisition (\$6,645,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1183-2004**

Authorizing the issuance of limited tax bonds in the amount of \$5,455,000 for the Division of Facilities Management (\$5,455,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1184-2004**

Authorizing the issuance of limited tax bonds in the amount of \$4,475,000 for recreation and parks (\$4,475,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1185-2004**

Authorizing the issuance of limited tax bonds in the amount of \$3,490,000 for cable and information services (\$3,490,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1186-2004**

Authorizing the issuance of limited tax bonds in the amount of \$1,500,000 for the King Lincoln District (\$1,500,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

1187-2004

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
 and President Habash

Authorizing the issuance of limited tax bonds in the amount of \$535,000 for  
 the Department of Health. (\$535,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
 that this matter be Waived the 2nd Reading. The motion carried by the  
 following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
 and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Thomas,  
 that this matter be Approved. The motion carried by the following  
 vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
 and President Habash

1188-2004

Authorizing the issuance of limited tax bonds in the amount of \$400,000 for  
 Development (\$400,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Tavares,  
 that this matter be Waived the 2nd Reading. The motion carried by the  
 following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
 and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Tavares,  
 that this matter be Approved. The motion carried by the following  
 vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas  
 and President Habash

1190-2004

Authorizing the issuance of limited tax bonds in the amount of \$300,000 for  
 Taylor Homes Phase II (\$300,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Tavares,  
 that this matter be Waived the 2nd Reading. The motion carried by the  
 following vote:**



Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1191-2004**

Authorizing the issuance of limited tax bonds in the amount of \$200,000 for West Edge Business Center (\$200,000)

Section 55(B) of the City Charter.

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Tavares, that this matter be Waived the 2nd Reading. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Mr. Sensenbrenner, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Absent@vote: 1 - Ms. O'Shaughnessy  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash

#### **ADMINISTRATION: BOYCE, CHR. SENSENBRENNER MENTEL HABASH**

**1090-2004**

To authorize the City Auditor to enter into an understanding with the Franklin County Auditor agreeing to the clarification of the Tax Commissioner of the State of Ohio.

**A motion was made by Mr. Boyce, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

#### **RECREATION & PARKS: BOYCE, CHR. SENSENBRENNER THOMAS HABASH**

**1102-2004**

To authorize the Director of the Recreation and Parks Department to execute those documents required to transfer 3.921 acres of City owned parkland along Alkire Road to Rockford Homes in exchange for 4.433 acres of proposed parkland to be deeded from Rockford Homes to the City, to waive the competitive bidding provisions of Columbus City Codes, and to declare an emergency.

**A motion was made by Mr. Boyce, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**DEVELOPMENT: O'SHAUGHNESSY, CHR. BOYCE TAVARES HABASH**

**1089-2004** To authorize the City Attorney to acquire options to purchase fee simple title, contract for professional services, to authorize the appropriation and to authorize the City Auditor to transfer \$100,000 from the Special Income Tax Fund to the Northland and Other Acquisition Fund for costs in connection with the King Lincoln District Acquisition Project; to authorize the expenditure of \$100,000; and to declare an emergency (\$100,000).

**A motion was made by Ms. O'Shaughnessy, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1110-2004** To authorize the Director of Development to enter into an agreement with EMH&T and/or its affiliate for a tax abatement of seventy-five percent (75%) on real property improvements, machinery & equipment, and furniture & fixtures for a period of ten (10) years in consideration of a proposed \$13.5 million investment in real property improvements and new personal property, the creation of 85 (eighty-five) new full-time jobs and the relocation/retention of 329 full-time positions new to Columbus; and to declare an emergency.

**A motion was made by Ms. O'Shaughnessy, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**PUBLIC SERVICE & TRANSPORTATION: O'SHAUGHNESSY, CHR. SENSENBRENNER TAVARES HABASH**

**0967-2004** To authorize the City Auditor to transfer \$540,270.69 between projects within the 1995, 1999 Voted Streets and Highways Fund; to appropriate and authorize the City Auditor to transfer \$1,540,258.02 from the Special Income Tax Fund to the 1995, 1999 Voted Streets and Highways Fund; to authorize the City Auditor to transfer \$2,390,150.58 from the 1995, 1999 Voted Streets and Highways Fund to the Local Transportation Improvement Program Fund; to appropriate \$3,674,091.10 within the Local Transportation Improvement Program Fund; to authorize the Public Service Director to enter into contract with Shelly and Sands, Incorporated, for the Resurfacing 2004 Project 1 (OPWC) project for the Transportation Division; to authorize the expenditure of \$3,674,091.10 from the Local Transportation Improvement Program Fund, and to declare an emergency. (\$3,674,091.10)

**A motion was made by Ms. O'Shaughnessy, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1008-2004**

To authorize and direct the Finance Director to issue blanket purchase orders for various automotive equipment parts, supplies, accessories and services for the Fleet Management Division, to authorize the expenditure of \$505,000.00 from the Fleet Maintenance Fund, to waive the competitive bidding requirements of the Columbus City Codes, and to declare an emergency. (\$505,000.00)

**A motion was made by Ms. O'Shaughnessy, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**HEALTH, HOUSING & HUMAN SERVICES: TAVARES, CHR. BOYCE THOMAS HABASH**

**1091-2004**

To authorize the appropriation and expenditure of \$727,047 from the HOME Fund to the Department of Development to provide funding for the American Dream Down Payment Initiative (ADDI); and to declare an emergency. (\$727,047)

**A motion was made by Ms. Tavares, seconded by Mr. Sensenbrenner, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1115-2004**

To authorize the Director of the Department of Development to enter into a contract with the Community Development Collaborative of Greater Columbus; to authorize the expenditure of \$273,107.65 from the HOME Fund; and to declare an emergency. (\$273,107.65)

**A motion was made by Ms. Tavares, seconded by Ms. Thomas, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1134-2004**

To authorize the Director of the Department of Development to enter into contract with the Community Shelter Board to support the Homeless Prevention and Transition Programs; to authorize the expenditure of \$420,000.00 from the 2004 Community Development Block Grant Fund; and to declare an emergency. (\$420,000.00)

*This is a technical defeat*

**A motion was made by Ms. Tavares, seconded by Mr. Sensenbrenner, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Abstained: 1 - Ms. Thomas  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner and President Habash

**A motion was made by Ms. Tavares, seconded by Ms. Thomas, that this matter be Reconsidered. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Abstained: 1 - Ms. Thomas  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner and President Habash

*TABLED UNTIL 07/12/04*

**A motion was made by Ms. Tavares, seconded by Mr. Sensenbrenner, that this matter be Tabled to Certain Date. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Abstained: 1 - Ms. Thomas  
 Affirmative: 5 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner and President Habash

#### **UTILITIES: THOMAS, CHR. MENDEL O'SHAUGHNESSY HABASH**

**1022-2004**

To authorize the Director of Public Utilities to modify the contract with Astute, Inc., to purchase additional software licenses for the telephone system, for the Division of Water, to authorize the expenditure of \$30,385.00 from Water Systems Operating Fund, and to declare an emergency. (\$30,385.00)

**A motion was made by Ms. Thomas, seconded by Ms. Tavares, that this matter be Amended as submitted to the Clerk. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Ms. Thomas, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

#### **RULES & REFERENCE: HABASH, CHR. MENDEL SENSENBRENNER TAVARES**

**1095-2004**

To amend Title 7 of the Columbus City Codes, 1959, by enacting new Chapter 715, which prohibits smoking in public places and places of employment.

Sponsors: Charleta B. Tavares

**A motion was made by Ms. Tavares, seconded by Ms. Thomas, that this matter be Taken from the Table. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
 Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Ms. Tavares, seconded by Ms. Thomas, that this matter be Amended as submitted to the Clerk. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**A motion was made by Ms. Tavares, seconded by Mr. Boyce, that this matter be Approved as Amended. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Ms. Thomas and President Habash  
Negative: 1 - Mr. Sensenbrenner

## LATE AGENDA

### RECREATION & PARKS: BOYCE, CHR. SENSENBRENNER THOMAS HABASH

**1268-2004** LA To authorize the Director of Recreation and Parks to enter into a contract with the Franklin County Commissioners for the Summer Youth Employment - Temporary Assistance for Needy Families Funds, to appropriate said funds, and to declare an emergency. (\$394,706.85)

**A motion was made by Mr. Boyce, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

**1272-2004** LA To authorize the direct the Director of Recreation and Parks to enter into contract with the Private Industry Council for the 2004 Summer Youth Employment Program, to authorize the expenditure of \$394,706.85 from the Recreation and Parks Grant Fund , and to declare an emergency (\$394,706.85)

**A motion was made by Mr. Boyce, seconded by Ms. Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Affirmative: 6 - Mr. Boyce, Ms. Tavares, Ms. O'Shaughnessy, Mr. Sensenbrenner, Ms. Thomas and President Habash

*ADJOURNED: 7:20 P.M.*

**A motion was made by Mr. Boyce, seconded by Ms. Tavares, to adjourn this Regular Meeting. The motion carried by the following vote:**

Absent: 1 - President Pro-Tem Mentel  
Absent@vote: 1 - Ms. O'Shaughnessy  
Affirmative: 5 - Mr. Boyce, Ms. Tavares, Mr. Sensenbrenner, Ms. Thomas and President Habash



# City of Columbus Journal - Final Zoning Committee

Office of City Clerk  
90 West Broad Street  
Columbus OH  
43215-9015  
columbuscitycouncil.org

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Monday, June 28, 2004

6:30 PM

Zoning Committee

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Zoning Committee

Journal

June 28, 2004

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## REGULAR MEETING NO. 39 OF CITY COUNCIL (ZONING), JUNE 28, 2004 AT 6:30 P.M. IN COUNCIL CHAMBERS.

### ROLL CALL

Absent: Chair Mentel and Ms. O'Shaughnessy

Present: Mr. Boyce: President Habash: Sensenbrenner: Tavares and Thomas

### READING AND DISPOSAL OF THE JOURNAL

**A motion was made by Thomas, seconded by Boyce, to Dispense with the reading of the Journal and Approve. The motion carried by the following vote:**

Absent: Chair Mentel and Ms. O'Shaughnessy

Affirmative: Mr. Boyce, President Habash, Sensenbrenner, Tavares and Thomas

### EMERGENCY, TABLED AND 2ND READING OF 30 DAY LEGISLATION

#### ZONING: MENDEL, CHR. BOYCE HABASH O'SHAUGHNESSY SENSENBRENNER TAVARES THOMAS

**0439-2004**

To rezone 1120 GEORGESVILLE ROAD (43228) being 2.44± acres located on the east side of Georgesville Road, at the terminus of Hall Road; From: R, Rural District, To: L-C-2, Limited Commercial District (Z03-079).

**A motion was made by Habash, seconded by Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: Chair Mentel and Ms. O'Shaughnessy

Affirmative: Mr. Boyce, President Habash, Sensenbrenner, Tavares and Thomas

**0962-2004**

To rezone 2476 LOCKBOURNE ROAD (43207), being 4.53± acres located on the east side of Lockbourne Road, 440± feet south of State Route 104, From: L-M-2, Limited Manufacturing District, To: CPD, Commercial Planned Development District and L-M-2, Limited Manufacturing District (Z04-017).

**A motion was made by Habash, seconded by Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: Chair Mentel and Ms. O'Shaughnessy

Abstained: Thomas

Affirmative: Mr. Boyce, President Habash, Sensenbrenner and Tavares

**0992-2004**

To grant a Variance from the provisions of Sections 3356.03, C-4 Permitted Uses, 3356.05 and C-4 District Development Limitations, of the Columbus City Codes for the property located at 33 WARREN STREET (43201), to permit seven (7) dwelling units in the C-4, Commercial District.

**A motion was made by Habash, seconded by Tavares, that this matter be Approved. The motion carried by the following vote:**

Absent: Chair Mentel and Ms. O'Shaughnessy

Abstained: Thomas

Affirmative: Mr. Boyce, President Habash, Sensenbrenner and Tavares

**1029-2004**

To rezone 2146 HILLIARD-ROME ROAD (43026), being 0.81± acres located at the southeast corner of Hilliard-Rome Road and Nike Drive, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District (Z04-003).

*TABLED UNTIL 07/12/04*

**A motion was made by Habash, seconded by Thomas, that this matter be Tabled to Certain Date. The motion carried by the following vote:**

Absent: Chair Mentel and Ms. O'Shaughnessy

Affirmative: Mr. Boyce, President Habash, Sensenbrenner, Tavares and Thomas

*ADJOURNED: 7:00*

**A motion was made by Habash, seconded by Thomas, to adjourn this Regular Meeting. The motion carried by the following vote:**

Absent: Chair Mentel and Ms. O'Shaughnessy

Affirmative: Mr. Boyce, President Habash, Sensenbrenner, Tavares and Thomas

# Ordinances and Resolutions



City of Columbus  
City Bulletin Report

Office of City Clerk  
90 West Broad Street  
Columbus OH 43215-9015  
columbuscitycouncil.org

**Legislation Number:** 0439-2004

**Drafting Date:** 02/25/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

**REZONING APPLICATION:** Z03-079

**APPLICANT:** City of Refuge Worship Center; c/o Leo Recio, Agent for Applicant; 3137 Scenic Way, Grove City, Ohio 43123.

**PROPOSED USE:** Church or C-2, Commercial District uses.

**DEVELOPMENT COMMISSION RECOMMENDATION:** Approval (4-0) on January 8, 2004.

**GREATER HILLTOP AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The requested L-C-2, Limited Commercial District to permit expansion of an existing office building for use as a church or to permit site redevelopment with uses permitted in the C-2, Commercial District is consistent with established zoning and development patterns of the area, and maintains the applicant's option to redevelop the site at a later date for C-2, Commercial uses. The limitation text includes development standards that address site access, landscaping along Georgesville Road frontage, use of building materials that match the existing building, a conservation easement along the stream, and standard lighting and graphics restrictions.

**Title**

To rezone **1120 GEORGESVILLE ROAD (43228)** being 2.44± acres located on the east side of Georgesville Road, at the terminus of Hall Road; **From:** R, Rural District, **To:** L-C-2, Limited Commercial District (Z03-079).

**Body**

**WHEREAS**, application #Z03-079 is on file with the Building Services Division of the Department of Development requesting rezoning of 2.44± acres, from R, Rural District, to L-C-2, Limited Commercial District; and

**WHEREAS**, the Development Commission recommends approval of said zoning change; and

**WHEREAS**, the Greater Hilltop Area Commission recommends approval of said zoning change; and

**WHEREAS**, the City Departments recommend approval because the requested L-C-2, Limited Commercial District to permit expansion of an existing office building for use as a church or to permit site redevelopment with uses permitted in the C-2, Commercial District is consistent with established zoning and development patterns of the area, and maintains the applicant's option to redevelop the site at a later date for C-2, Commercial uses. The limitation text includes development standards that address site access, landscaping along Georgesville Road frontage, use of building materials that match the existing building, a conservation easement along the stream, and standard lighting and graphics restrictions; now, therefore:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the Official Zoning Map of the City of Columbus, as adopted by Ordinance No. 0179 -03, passed

February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

**1120 GEORGESVILLE ROAD (43228)**, being 2.44± acres located on the east side of Georgesville Road, at the terminus of Hall Road, and being more particularly described as follows:

**LEGAL DESCRIPTION OF 2.441 ACRES**

**ENTER LEGAL DESCRIPTION HERE**

**To Rezone From:** R, Rural District,

**To:** L-C-2, Limited Commercial District.

**SECTION 2.** That a Height District of Thirty-five (35) feet is hereby established on the L-C-2, Limited Commercial District on this property.

**SECTION 3.** That the Director of the Department of Development be, and he is hereby authorized and directed to make the said changes on the said original zoning map in the office of the Building Services Division and shall register a copy of the approved L-C-2, Limited Commercial District and Application among the records of the Building Services Division as required by Section 3370.03 of the Columbus City Codes; said text being titled "**LIMITATION TEXT**," signed by Leo Recio, Jr., Agent for the Applicant, and dated March 1, 2004, and reading as follows:

**LIMITATION TEXT**

**PROPOSED DISTRICT:** L-C-2, Limited Commercial District

**PROPERTY ADDRESS:** 1120 Georgesville Rd., Columbus, Ohio 43228

**OWNER:** City of Refuge Worship Center, Corp.

**APPLICANT:** Leo Recio for the Owner

**DATE OF TEXT:** March 1, 2004

**APPLICATION NUMBER:** Z03-079

**1. INTRODUCTION:** Prior to it's annexation into the City of Columbus (August, 2003), the property in questions had been zoned Community Commercial (CC) District by Franklin County (since 1987). The Property is located on the east side of Georgesville Rd. just south of Hall Rd. The property to the north is in the township and is zoned Neighborhood Commercial (Veterinarian's Office). The property to the south is also in the township and zoned Rural (Residential). The property to the west (across the street) has been annexed into the City of Columbus and is a mix of Residential and Commercial. To the east of the property, the City of Columbus owns Big Run Park. The Applicant is seeking a zoning of L-C-2 to permit the owner's current plan for a small Worship Center (Church) and to allow for future use as Office/Commercial Space.

**2. PERMITTED USES:** The permitted use shall be those listed in Columbus Code Section 3353.01 (C-2 Commercial District).

**3. DEVELOPMENT STANDARDS:**

**A. Density, Lot and/or Setback requirements.**

1. Building Setback- Building setback will be 30' from the Georgesville Rd. right-of-way line and 30' from the back (east) property line.

2. Parking setbacks shall be 10' from the Georgesville Road right-of-way line and 30' from the east property line.

**B. Access, Parking, and Other Traffic Related Commitments.**

All curb cuts and access are subject to approval of the Transportation Division.

**C. Buffering, Landscaping, and/or Screening Commitments.**

1. Conservation Easement - A Conservation Easement will be granted for the creek which runs along the South side of the Property. The Easement will be granted for the entire length of the creek to the current Top-of-Bank line. The Easement will be granted prior to the issuance of zoning clearance.

2. Landscaping- Landscaping provided along Georgesville Rd. shall be located in the ten (10) foot wide parking and maneuvering setback and shall consist of 1 deciduous tree, 1 ornamental tree, 1 evergreen, and 5 shrubs per 100 lineal feet. Minimum standards at time of planting are: 2.5" caliper for deciduous trees, 1.5" caliper for ornamental trees and 5' height for evergreens. Caliper shall be measured 6" from the ground. All trees and landscaping shall be well maintained. Dead items shall be replaced within six months or the next planting season, whichever occurs first.

**D. Building Design and/or Exterior/Interior Treatment.**

1. Current plans are to construct an addition to the existing building. The existing building is a mixture of stone and wood siding. The siding will be converted to stucco (synthetic). The addition will be of matching materials - stucco with stone (15%) accents. This scheme will be maintained within 80 feet of the Georgesville Road right-of-way line. The rear portion of the building will be either split-faced block or painted metal siding. Any replacement or additional building shall comply with the same requirements.

2. Any mechanical equipment or utility hardware on the roof of a building shall be screened from view to prevent the equipment from being visible from the property line of the parcel. Ground mounted mechanical or utility equipment shall be fully screened from view from ground level by landscaping or any fence or wall utilizing comparable and compatible materials as the building materials.

**E. Lighting, Outdoor Display Areas, and/or Other Environmental Commitments.**

1. All external lighting shall be cut-off fixtures and shall be designed to prevent offsite spillage.

2. All external outdoor lighting fixtures to be used shall be from the same or similar manufacturers type to insure compatibility.

3. Light poles in the Parking Areas shall not exceed 20 feet in height.

4. Light poles shall not exceed 14 feet in height within 100 feet of residentially zoned property.

5. Accent lighting shall be permitted provided such light source is concealed.

6. Any wall-mounted lighting shall be shielded to prevent offsite spillage.

**F. Graphic and/or Signage Commitments.**

All Graphics and Signage shall comply with the Graphics Code, Article 15, Title 33 of the Columbus City Code and any variance to those requirements will be submitted to the Columbus Graphics Commission for consideration.

**SECTION 4.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

**Drafting Date:** 05/03/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**•Title**To appropriate and authorize the City Auditor to transfer \$102,600.00 from the Water System Reserve Fund to the Waterworks Enlargement Voted 1991 Bonds Fund for the purpose of funding the O'Shaughnessy Dam Hydroelectric Facilities, for the Division of Water, and to declare an emergency. (\$102,600.00)

d

**•Body**WHEREAS, It is required in the usual daily operation of the Division of Water, Department of Public Utilities, to provide funding for the O'Shaughnessy Dam Hydroelectric Facilities, and

WHEREAS, The funding method for this expenditure is a temporary measure until such time as the City sells notes or bonds for the above stated purpose, and

WHEREAS, The aggregate principal amount of obligations which the City will issue to finance the project is presently expected not to exceed \$102,600.00, and

WHEREAS, An emergency exists in the usual daily operation Division of Water, Department of Public Utilities in that it is immediately necessary to appropriate funds from the Water System Reserve Fund, so as to allow the financial transaction to be posted in the City's accounting system as soon as possible. Up to date financial posting promotes accurate accounting and financial management, and for the immediate preservation of public health, peace, property, safety and welfare; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS

Section 1. That from the unappropriated monies in the Water System Reserve Fund 603, and from all monies estimated to come into said fund from any and all sources, and unappropriated for any other purpose during the fiscal year ending December 31, 2004, the sum of \$102,600.00 is hereby appropriated to the Division of Water, Department/Division Number 60-09, Fund 603 OCA Code 695056, Object Level Three 5502.

Section 2. That the City Auditor is hereby authorized to transfer said funds to the proper capital improvement subfund for Project No. 690251, OCA 690251, Dept./Division No. 60-09, Object Level Three 6682. O'Shaughnessy Dam Hydroelectric Facilities, and to expend said funds or as much thereof as may be necessary.

Section 3. That \$102,600.00 is hereby appropriated for the Waterworks Enlargement Voted 1991 Bonds, Fund No. 606, Department of Public Utilities, Division of Water, Dept./Division No. 60-09, Object Level Three 6682, Project No. 690251, OCA Code 690251.

Section 4. That upon obtaining other funds for the purpose of funding water projects and allied facilities capital improvement work, the City Auditor is hereby authorized to repay the Water System Reserve Fund the amount of transferred funds under Section 2 above, and said funds are hereby deemed appropriated for such purpose.

Section 5. The City Auditor is authorized to make any accounting changes to revise the funding source for the contract associated with expenditure of funds transferred under Section 2 above.

Section 6. The City intends that this ordinance constitute an "official intent" for purposes of Section 1.150-2(e) of the Treasury Regulations promulgated pursuant to the Internal Revenue Code of 1986, as amended.

Section 7. That for reasons stated in the preamble, hereto, which is hereby made a part hereof, this ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after approval if the Mayor neither approves nor vetoes the same.

**Legislation Number:** 0945-2004

**Drafting Date:** 05/14/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**1. BACKGROUND:

This legislation authorizes modifying the professional engineering services contract, with Brown & Caldwell Ohio, LLC, in connection with the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project for the Division of Sewerage and Drainage. This modification will provide for the preparation of detailed design plans and specifications for this project. The original scope of service conducted a preliminary engineering evaluation for purposes of determining the planned equipment and operational capacities.

2. PROFESSIONAL ENGINEERING SERVICES CONTRACT MODIFICATION:

This contract is being funded incrementally by modification as the work progresses through the planned project steps from preliminary design through services during construction. The Division of Sewerage and Drainage has determined that these services cannot be performed by city personnel at this time, and has planned for the procurement of these services on a routine basis. The contract total including this modification is \$138,870.00. The cost of these services is consistent with those provided for under the existing contract.

The potential need for the additional work was foreseen and so stated in the original contract's legislation explanation. This additional work is a direct, logical extension of the work included in the contract and is required immediately. It is not deemed either feasible or reasonable to suspend work with the entity currently under contract and undertake continuation of the work under a new procurement.

3. FISCAL IMPACT: This project work will be funded at a future date by a loan from the State of Ohio Water Pollution Control Loan Fund (WPCLF) which is jointly administered by the Ohio Environmental Protection Agency and the Ohio Water Development Authority.

**Title**To authorize the Director of Public Utilities to modify the professional engineering services contract with Brown & Caldwell Ohio, for the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project; to authorize the appropriation, transfer and expenditure of \$107,838.00 from the Sewer System Reserve Fund to the Ohio Water Pollution Control Loan Fund; for the Division of Sewerage and Drainage. (\$107,838.000)

**Body**WHEREAS, Ordinance No. 0117-03, as passed January 27, 2003 authorized the Director of Public Utilities to execute Contract No. EL003269 with Brown & Caldwell Ohio, LLC, for providing preliminary design services in connection with the Jackson Pike Wastewater Skimmings Concentrator System Improvement Project for the Division of Sewerage and Drainage, Department of Public Utilities; and

WHEREAS, it is necessary for this City Council to authorize the Director of Public Utilities to execute a professional engineering services contract modification with Brown & Caldwell Ohio, LLC, for purposes of adding the aforementioned services in connection with the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project; to authorize the appropriation, transfer, and expenditure of funds from the Sewer System Reserve Fund to the Ohio Water Pollution Control Loan Fund; at the earliest practicable date, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That from the unappropriated monies in the Sewerage System Reserve Fund No. 654 and from all monies estimated to come into said fund from any and all sources, and unappropriated for any other purpose during the fiscal year ending December 31, 2004, the sum of \$107,838.00 is hereby appropriated to the Division of Sewerage and Drainage| Division 60-05| Object Level 10| Object Level Three 5502| OCA Code 901533.

Section 2. That the City Auditor is hereby authorized to transfer \$107,838.00 to the Ohio Water Pollution Control Loan Fund No. 666, into the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project/ Project 650255/ at such time as deemed necessary by him, and to expend said funds, or so much thereof as may be necessary.

Section 3. That the expenditure of \$107,838.00 is hereby appropriated for the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project; Project No. 650255; within the Ohio Water Pollution Control Loan Fund No. 666| Division No. 60-05| OCA Code No. 666255.

Section 4. That the Director of Public Utilities be, and hereby is, authorized to modify the professional engineering services contract, identified as City Auditor's Contract No. EL003269, with Brown & Caldwell Ohio, LLC, 2674 Federated Boulevard, Columbus, Ohio 43235, for professional engineering services associated with the Jackson Pike Wastewater Treatment Plant Skimmings Concentrator System Improvements Project, in accordance with the terms and conditions as shown in the contract modification on file in the office of the General Engineering Section of the Division of Sewerage and Drainage.

Section 5. That for the purpose of paying the cost of the professional engineering services contract modification the expenditure of \$107,838.00, or as much thereof as may be needed, is hereby authorized from the Ohio Water Pollution Control Loan Fund No. 666| Division 60-05| Project No. 650255| OCA Code No. 666255| Object Level 3: 6678.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law

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**Legislation Number:** 0962-2004

**Drafting Date:** 05/18/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

**REZONING APPLICATION:** Z04-017

**APPLICANT:** Zorin Properties, LLC; c/o Robert N. Shamansky, Agent.; 88 East Broad Street, Suite 900; Columbus, Ohio 43215.

**PROPOSED USE:** Restaurant with drive-thru, office, and warehouse uses.

**DEVELOPMENT COMMISSION RECOMMENDATION:** Approval (4-0) on May 13, 2004.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The requested CPD, Commercial Planned Development District to develop a restaurant with a drive-thru and L-M-2, Limited Manufacturing District for office and warehouse storage is consistent with land use recommendations of the *Trisouth Neighborhood Plan* (2003). The CPD text for Sub Area "A" restricts site use to a restaurant with a drive-thru and includes development standards for site access, screening, sidewalks, and lighting and graphics restrictions. The L-M-2 limitation text for Sub Area "B" eliminates less objectionable manufacturing uses allowed by the current L-M-2 zoning (Z89-116) and permits office and warehouse development. The Sub Area "B" limitation text includes development standards similar to those established in Sub Area "A" and in consideration of adjacent single-family uses, provides 25-foot wide fenced and landscaped setbacks opposite single-family dwellings, restricts maximum building height to 35 feet, maximum size of warehouses to 4,999 square feet and prohibits loading docks for warehouses.

### **Title**

To rezone **2476 LOCKBOURNE ROAD (43207)**, being 4.53± acres located on the east side of Lockbourne Road, 440± feet south of State Route 104, **From:** L-M-2, Limited Manufacturing District, **To:** CPD, Commercial Planned Development District and L-M-2, Limited Manufacturing District (Z04-017).

**Body**

**WHEREAS**, application #Z04-017 is on file with the Building Services Division of the Department of Development requesting rezoning of 4.53± acres from L-M-2, Limited Manufacturing District, to CPD, Commercial Planned Development and L-M-2, Limited Manufacturing Districts; and

**WHEREAS**, the Development Commission recommends approval of said zoning change; and

**WHEREAS**, the City Departments recommend approval because the requested CPD, Commercial Planned Development District to develop a restaurant with a drive-thru and L-M-2, Limited Manufacturing District for office and warehouse storage is consistent with land use recommendations of the *Trisouth Neighborhood Plan* (2003). The CPD text for Sub Area "A" restricts site use to a restaurant with a drive-thru and includes development standards for site access, screening, sidewalks, and lighting and graphics restrictions. The L-M-2 limitation text for Sub Area "B" eliminates less objectionable manufacturing uses allowed by the current L-M-2 zoning (Z89-116) and permits office and warehouse development. The Sub Area "B" limitation text includes development standards similar to those established in Sub Area "A" and in consideration of adjacent single-family uses, provides 25-foot wide fenced and landscaped setbacks opposite single-family dwellings, restricts maximum building height to 35-feet, maximum size of warehouses to 4,999 square feet and prohibits loading docks for warehouses, now, therefore:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the Official Zoning Map of the City of Columbus, as adopted by Ordinance No. 0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

To rezone **2476 LOCKBOURNE ROAD (43207)**, being 4.53± acres located on the east side of Lockbourne Road, 440± feet south of State Route 104, and being more particularly described as follows:

**SUB AREA A: DESCRIPTION OF 1.060± ACRES**

Situated in the State of Ohio, County of Franklin, City of Columbus, Township of Marion, being a part of Section 2, Township 4, Range 22, Congress Lands, and part of 4.151 acres of land more or less as conveyed by deed to Robert M. Shamansky in O.R. 09744 J 18 (all references to deed and plat books refer to the records in the recorder's office of Franklin County, Ohio), said 4.151 acre tract of land being more particularly described as follows:

Commencing at a railroad spike found at the intersection of Koebel Road (40' R/W) and Lockbourne Road (R/W varies),

thence, N 03 °53' 29" E, a distance of 378.26 feet along the centerline of Lockbourne road to a PK nail set at a southwesterly corner of said 4.151 acre tract, said PK nail also being the northwest corner of a 0.441 acre tract as recorded in O.R. 33071 G 18 and also being the **True Point of Beginning** of this description,

thence, N 03° 53' 29" E, a distance of 115.26 feet along said centerline and westerly line of said 4.151 acre tract to a PK nail set at the northwest corner of said 4.151 acre tract and southwest corner of a 2.433 acre tract as recorded in instrument 200003220055966,

thence, S 85° 54' 57" E, a distance of 400 feet along a northerly line of said 4.151 acre tract and south line of said 2.433 acre tract, to a ¾" iron pipe set,

thence, S 03° 53' 29" E, a distance of 115.61 feet with a new line through said 4.151 acre tract to a ¾"

iron pin set,

thence, N 85° 51' 57" W, a distance of 400.00 feet with a new line and through the said 4.151 acre tract, returning to the **True Place of Beginning** and containing **1.060 acres** more or less, however, subject to all legal easements and rights-of-way on record.

This description was prepared from records on file at the Recorder's Office of Franklin County, Ohio and from an actual field survey performed on November 18th - 20th of 2003.

Basis of bearings: centerline of Lockbourne Road as being N 03° 53' 29" E, and being based on the Ohio State Plane Coordinate System, south zone and North American Datum of 1983 (1986) and from a centerline survey performed by the Franklin County Engineers Office date 10/15/2003.

Iron pins set are 5/8" rebar 30" long and are capped E.Z. 8067.

**To Rezone From:** L-M-2, Limited Manufacturing District,

**To:** CPD, Commercial Planned Development District.

#### **SUB AREA B: DESCRIPTION OF 3.468± ACRES**

Situated in the State of Ohio, County of Franklin, City of Columbus, Township of Marion, being a part of Section 2, Township 4, Range 22, Congress Lands, and containing 4.151 acres of land more or less as conveyed by deed to Robert M. Shamansky in O.R. 09744 J 18 and a 0.38 acre tract conveyed to said Shamansky in O.R. 27925 G 02 (all references to deed and plat books refer to the records in the recorder's office of Franklin County, Ohio), said 3.468 acre tract of land being more particularly described as follows:

Commencing at a railroad spike found at the intersection of Koebel Road (40' R/W) and Lockbourne Road (R/W varies) and being,

thence, N 03° 53' 29" E, a distance of 378.26 feet along the centerline of Lockbourne Road, to a PK nail set at a southwesterly corner of said 4.151 acre tract, said PK nail also being the northwest corner of a 0.441 acre tract as recorded in O.R. 33071 G 18 A,

thence, N 0° 53' 29" E, a distance of 115.26 feet along said centerline and westerly line of said 4.151 acre tract, to a PK nail set at the northwest corner of said 4.151 acre tract and southwest corner of a 2.433 acre tract as recorded in Instrument 200003220055966,

thence, S 85° 54' 57" E, a distance of 400.00 feet along a northerly line of said 4.151 acre tract and south line of said 2.433 acre tract, to a ¾" iron pipe set, also being the **True Point of Beginning** for this description,

thence, S 85° 54' 57" E, a distance of 509.65 feet along a northerly line of said 4.151 acre tract and south line of said 2.433 acre tract, to a ¾" iron pipe found on a westerly line of Walnut Springs Subdivision as recorded in P.B. 33, Pg. 74,

thence, S 03° 48' 24" W, a distance of 240.05 feet along a easterly line of said 4.151 acre tract and westerly line of said Walnut Springs Subdivision to a 1" iron pipe found at the southeast corner of said 4.151 acre tract as recorded in D.V. 3686, Pg. 713,

thence, N 85° 51' 57" W, a distance of 276.87 feet along a southerly line of said 4.151 acre tract, to an iron pin set, said pin also being the northeast corner of said Shamansky 0.38 acre tract,



thence, S 03° 40' 37" W, a distance of 234.65 feet along the east line of said 0.38 acre tract to an iron pipe set, said pipe being on the R-O-W of Koebel Road,

thence, N 85° 49' 53" W, a distance of 70.00 feet with the said R-O-W to a set iron pipe, said pipe being on the southwest corner of said 0.38 acre tract,

thence, N 03° 40' 37" E, a distance of 234.61 feet with the west line of said 0.38 acres to an iron pin on the south side of said original 4.151 acre tract,

thence, N 85° 51' 57" W, a distance of 262.69 feet along the said south line to a set iron pipe on the west line of said 4.151 acre tract,

thence, N 03° 41' 03" E, a distance of 124.00 feet along a westerly line of said 4.151 acre tract, to an iron pin set at a southwesterly corner of said 4.151 acre tract and northeast corner of said 0.441 acre tract,

thence, N 85° 51' 57" E, a distance of 100.00 feet with a new line through said 4.151 acre tract to a set iron pin,

thence, N 03° 53' 29" E, a distance of 115.61 feet with a new line through said 4.151 acre tract, returning to the **True Point of Beginning** of the description and containing **3.468 acres** more or less, however, subject to all legal easements and rights-of-way on record.

This description was prepared from records on file at the Recorder's Office of Franklin County, Ohio and from an actual field survey performed on November 18th - 20th of 2003.

Basis of bearings: centerline of Lockbourne Road as being N 03° 53' 29" E, and being based on the Ohio State Plane Coordinate System, south zone and North American Datum of 1983 (1986) and from a centerline survey performed by the Franklin County Engineers Office date 10/15/2003.

Iron pins set are 5/8" rebar 30" long and are capped E.Z. 8067.

**To Rezone From:** L-M-2, Limited Manufacturing District,

**To:** L-M-2, Limited Manufacturing District.

**SECTION 2.** That a Height District of Thirty-five (35) feet is hereby established on the CPD, Commercial Planned Development District and L-M-2, Limited Manufacturing District on this property.

**SECTION 3.** That the Director of the Department of Development be, and he is hereby authorized and directed to make the said changes on the said original zoning map in the office of the Building Services Division and shall register a copy of the approved CPD, Commercial Planned Development and L-M-2, Limited Manufacturing Districts and Application among the records of the Building Services Division as required by Sections 3311.12 and 3370.03, respectively, of the Columbus City Codes; said site plan being titled "**SUB AREA A, DAIRY QUEEN CPD SITE PLAN**," and texts being titled "**SUB AREA A - LOCKBOURNE ROAD CPD TEXT**" and "**SUB AREA B - L-M-2, LIMITED MANUFACTURING DISTRICT TEXT**," all dated May 17, 2004 and all signed by Robert N. Shamansky, Agent for the Applicant, and the texts reading as follows:

**SUB AREA A, DAIRY QUEEN CPD SITE PLAN**

**PROPOSED DISTRICT:** CPD.

**PROPERTY ADDRESS:** 2476 Lockbourne Road.

**OWNER:** Robert N. Shamansky.

**APPLICANT:** Zorin Properties, LLC.

**DATE OF TEXT:** 05/17/04.

**APPLICATION NUMBER:** Z04-017.

**1. INTRODUCTION:** The subject property was rezoned to the L-M-2, Limited Manufacturing District in 1990 (Z89-116; ORD750-90) as part of a 13.98± acre site to permit those M-2 uses contained in C.C. 3367.01 through 3367.08, with the exception of certain prohibited uses. The applicant wants to rezone Sub Area "A," a 1.059± acre portion of that site fronting on Lockbourne Road to the CPD, Commercial Planned Development District to develop a restaurant with a drive-thru.

**2. PERMITTED USES:** A restaurant with a drive-thru, as permitted in Section 3356.03, C-4 permitted uses.

**3. DEVELOPMENT STANDARDS:** Unless otherwise indicated in the written text, the applicable development standards shall be those standards contained in Chapter 3356, C-4 Regional Scale Commercial District.

**A. Density, Height, Lot and/or Setback commitments.**

1. Front yard minimum building setback shall be 50 feet.
2. Front yard minimum parking setback shall be 25 feet.
3. Parking and maneuvering setbacks along the north, south and east property lines shall be as shown on the CPD site plan titled "**SUB AREA A, DAIRY QUEEN CPD SITE PLAN,**" signed May 17, 2004 by Robert N. Shamansky, Agent for the Applicant.
4. The maximum lot coverage for buildings and paved areas shall be 85%.

**B. Access, Loading, Parking and/or other Traffic related commitments.**

1. The site shall be developed in general conformance with the site plan titled "**SUB AREA A, DAIRY QUEEN CPD SITE PLAN,**" signed by Robert N. Shamansky, Attorney for the Applicant. All circulation, curb cuts and access provided shall be subject to final approval of the City of Columbus Transportation Division at the time of zoning clearance.
2. There shall be no motor vehicle access from Sub Area "A" to Sub Area "B."
3. The applicant shall provide a concrete sidewalk along Lockbourne Road frontage designed to Transportation Division standards and a four (4) foot wide concrete sidewalk to provide a pedestrian connection from Sub Area "A" to Sub Area "B."

**C. Buffering, Landscaping, Open space and/or Screening commitments.**

1. Landscaping between the Lockbourne Road right-of-way line and the 25-foot parking setback line shall consist of mounding and Compact Winged Euonymus (N=22) north of the entry drive; and mounding, Compact Winged Euonymus (N=19), and a Sentinel Crabapple tree (N=1) south of the entry drive, as depicted on the CPD site plan.
2. Landscaping east of the 25 foot Lockbourne Road parking setback line shall consist of grass. Landscaping along the south property line shall meet the requirements of C.C. 3342 so long as the property to the south is residentially zoned or used. At such time as property south of Sub Area "A" is no longer residentially zoned or used, landscaped or other headlight screening a minimum of thirty (30) inches in height may be provided as measured from the elevation of the nearest adjacent paved area.
3. All paved areas adjacent to Lockbourne Road shall have headlight screening consisting of mounding and/or landscaping a minimum of thirty (30) inches in height parallel to such road frontage as measured from the elevation of the nearest

adjacent paved parking area.

4. Landscaping along the east property line shall consist of grass and such other landscaping vegetation and materials as may be desired.
5. Trees within Sub Area "A" shall meet the following minimum standards at time of installation: Deciduous Trees, 2.5" Caliper; Ornamental Trees, 1.75" Caliper; and Evergreen Trees, 5' Height. Caliper shall be measured 6" above grade.
6. All trees and landscaping shall be well maintained. Dead materials shall be replaced within six (6) months or the next planting season, whichever occurs first.

**D. Building design and/or Interior-Exterior treatment commitments.**

1. Rooftop Mechanicals Screening: Any mechanical equipment or utility hardware on the roof of a building shall be screened from view to prevent the equipment from being visible from the property line of the parcel. Ground mounted mechanical or utility equipment shall be fully screened from view from ground level by landscaping or any fence or wall utilizing materials that are comparable and compatible to building materials used for the restaurant.

**E. Dumpsters, Lighting, Outdoor display areas and/or other environmental commitments.**

1. All dumpsters shall be screened on four sides to a minimum height of six feet utilizing materials that are comparable and compatible to building materials used for the restaurant.
2. Lighting in parking areas shall be the cutoff variety on poles not exceeding 18 feet in height. Lighting in maneuvering or loading areas shall be either to the above parking area standard or shall be wall mounted and of cutoff or down light design. All exterior lighting shall be designed or constructed so that glare into residential areas is avoided.
3. All exterior lighting fixtures shall be the same or similar manufacturer's type to insure aesthetic compatibility.
4. Any accent lighting shall be directed toward the building signage or landscaping and shall not interfere with neighborhood uses or right-a-way traffic.

**F. Graphics and Signage commitments.**

All signage shall conform to Article 15, Title 33, of the Columbus City Code, as applied to the C-4, Commercial District. Any variance from these requirements will be submitted to the City of Columbus graphics commission for consideration.

**G. CPD Criteria**

1. Natural Environment. Sub Area "A" is developed with a single-family dwelling and garage.
2. Existing Land Uses. A single-family dwelling and undeveloped land, both zoned in the L-M-2, Limited Manufacturing District, are located to the north and east, respectively. A single-family dwelling zoned in the R-2, Residential District is located to the south. A church zoned in the R-2, Residential District is located to the west across Lockbourne Road.
3. Transportation and Circulation. Access to the site shall be via Lockbourne Road.
4. Visual Form of the Development. The site shall be developed in accordance with the CPD text and site plan.
5. View and Visibility. In the development of the subject property, location of the buildings and access points, consideration has been given to the visibility and safety of motorists and pedestrians.
6. Proposed Development. Restaurant with drive-thru as permitted under this CPD text and site plan.
7. Emissions. No adverse affects from emissions shall result from the proposed development.

8. Behavior Patterns. The proposed development would serve the growing Columbus residential population as well as the motorists who use Lockbourne Road to get to their place of employment.

**H. Miscellaneous commitments.**

1. A park fee for the total development site of 4.56± acres (Sub Areas "A" and "B") shall be due to the City of Columbus prior to issuance of zoning clearance for either sub area.
2. Prior to submitting an application for zoning clearance to develop Sub Area "A" the applicant shall obtain a lot split for the 1.059± acre site.
3. Variance(s) Requested
  - a. A variance to C.C. 3342.07 is requested to eliminate the requirement for an exclusive bypass lane with a minimum width of ten (10) feet designed to allow vehicles to bypass the stacking lane.
  - b. A variance to C.C. 3342.28 is requested to reduce the required number of on-site parking spaces from 45 to 35 spaces.
4. The site plan titled "**SUB AREA A, DAIRY QUEEN CPD SITE PLAN,**" dated May 17, 2004 and signed by Robert N. Shamansky, Attorney for the Applicant may be slightly adjusted to reflect engineering, topographical, or other site data, developed at the time development or when engineering plans are completed. Any slight adjustments to the site plan or building elevations shall be reviewed and approved by the Director of the Department of Development, or his/her designee, upon submission of appropriate data regarding the proposed adjustment.

**SUB AREA B - L-M-2, LIMITED MANUFACTURING DISTRICT TEXT**

**PROPOSED DISTRICT:** L-M-2.

**PROPERTY ADDRESS:** 2476 Lockbourne Road.

**OWNER:** Robert N. Shamansky.

**APPLICANT:** Zorin Properties, LLC.

**DATE OF TEXT:** 05/17/04.

**APPLICATION NUMBER:** Z03-017.

**1. INTRODUCTION:** The subject property was rezoned to the L-M-2, Limited Manufacturing District in 1990 (Z89-116; ORD750-90) as part of a 13.98± acre site to permit those M-2 uses contained in C.C. 3367.01 through 3367.08, with the exception of certain prohibited uses. The applicant wants to rezone Sub Area "B", a 3.47± acre portion of that site located east of Sub Area "A" and having access to Koebel Road, to the L-M-2, Limited Manufacturing District to develop office and storage uses.

**2. PERMITTED USES:** All types of offices per C.C. 3367.01, warehouse or storage in bulk as permitted per C.C. 3367.02(b) except that storage of fuel and soil stabilizer shall be prohibited. All less objectionable uses permitted in C.C. 3367.03 through 3367.08, telecommunication antennas permitted in C.C. 3367.085, and storage permitted in C.C. 3367.29 shall be prohibited. The open or unenclosed storage of materials or equipment is prohibited.

**3. DEVELOPMENT STANDARDS:** Unless otherwise indicated in the written text, the applicable development standards shall be those standards contained in Chapter 3367, M-2 Manufacturing District.

**A. Density, Height, Lot and/or Setback commitments.**

1. A minimum 25-foot landscaped parking and maneuvering setback/buffer zone shall be established along the east and south property lines, and along that portion of the west property line that is contiguous to residentially zoned or used property.
2. A minimum 10-foot landscaped parking and maneuvering setback shall be established along the north property line.
3. The maximum square footage of any warehouse building shall be 4,999 square feet.
4. Warehouses shall not have loading docks.
5. The maximum lot coverage for buildings and paved areas shall be 85%.
6. The maximum absolute height for all buildings shall be 35 feet.

**B. Access, Loading, Parking and/or other Traffic related commitments.**

1. All circulation, curb cuts and access provided to Koebel Road or Lockbourne Road shall be subject to final approval of the City of Columbus Transportation Division at the time of zoning clearance.
2. There shall be no motor vehicle access from Sub Area "B" to Sub Area "A."
3. The applicant shall provide a concrete sidewalk along Koebel Road frontage designed to Transportation Division standards. Four (4) foot wide concrete sidewalks shall also be installed along one side of the entry drive from Koebel Road, along one side of any driveway designed to provide access to Lockbourne Road, and from Sub Area "B" to Sub Area "A" to provide pedestrian access to the site.

**C. Buffering, Landscaping, Open space and/or Screening commitments.**

1. Landscaping along the 70'± wide Koebel Road access drive frontage shall consist of a combination of mounding and landscaping a minimum of 30" in height, and at least one deciduous or ornamental tree on each side of the driveway entrance.
2. Screening east and west of the Koebel Road access driveway corridor shall meet the requirements of C.C. 3342 and provide ornamental trees or evergreens spaced a minimum of 25 feet on center.
3. Landscaping and buffering along the eastern and southern property lines, and along that portion of the western property line that is contiguous to residentially zoned or used property shall consist of a wood privacy fence a minimum of five (5) feet in height along the property line and over-story screening consisting of deciduous trees planted thirty-five (35) feet on center.
4. Landscaping along the north property line shall consist of grass and ornamental trees or evergreens spaced twenty (20) feet on center.
5. Trees within Sub Area "A" shall meet the following minimum standards at time of installation: Deciduous Trees, 2.5" Caliper; Ornamental Trees, 1.75" Caliper; and Evergreen Trees, 5' Height. Caliper shall be measured 6" above grade.
6. All trees and landscaping shall be well maintained. Dead materials shall be replaced within six (6) months or the next planting season, whichever occurs first.

**D. Building design and/or Interior-Exterior treatment commitments.**

1. Rooftop Mechanicals Screening: Any mechanical equipment or utility hardware on the roof of a building shall be screened from view to prevent the equipment from being visible from the property line of the parcel. Ground mounted mechanical or utility equipment shall be fully screened from view from ground level by landscaping or any fence or wall utilizing materials that are comparable and compatible to building materials used for the restaurant.

2. All buildings exteriors shall be constructed of wood, brick, real or synthetic stone, real or synthetic stucco, glass, vinyl siding, wood shingles, concrete, marble, textured concrete or any combination thereof. Split-faced concrete block shall not be permitted except for foundation work/construction.

3. All buildings shall have pitched roofs to a minimum 6:12 ratio.

**E. Dumpsters, Lighting, Outdoor display areas and/or other environmental commitments.**

1. All dumpsters shall be screened on four sides to a minimum height of six feet utilizing materials that are comparable and compatible to building materials used for associated buildings.

2. Lighting in parking areas shall be the cutoff variety on poles not exceeding 18 feet in height, except that lighting located within 100 feet of residentially zoned or used property shall not exceed 14 feet in height. Lighting in maneuvering or loading areas shall be either to the above parking area standard or shall be wall mounted and of cutoff or down light design. All exterior lighting shall be designed or constructed so that glare into residential areas is avoided.

3. All exterior lighting fixtures shall be the same or similar manufacturer's type to insure aesthetic compatibility.

4. Any accent lighting shall be directed toward the building signage or landscaping and shall not interfere with neighborhood uses or right-a-way traffic.

**F. Graphics and Signage commitments.**

All signage shall conform to Article 15, Title 33, of the Columbus City Code, as applied to the M-2, Manufacturing District. Any variance from these requirements will be submitted to the City of Columbus graphics commission for consideration.

**H. Miscellaneous commitments.**

1. A park fee for the total development site of 4.53± acres (Sub Areas "A" and "B") shall be due to the City of Columbus prior to issuance of zoning clearance for either sub area.

2. Prior to submitting an application for zoning clearance to develop Sub Area "A" the applicant must have obtained a lot split to establish Sub Area "A" (1.059± acres) and Sub Area "B" (3.47± acres) as separate parcels.

**SECTION 4.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

**Legislation Number:** 0967-2004

**Drafting Date:** 05/19/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

Explanation This legislation authorizes the City to enter into a contract in an amount up to \$3,374,470.10 for the Resurfacing 2004 Project 1 (OPWC) project and to pay construction inspection costs up to \$299,621.00. This improvement details the planing and resurfacing of various streets and the construction of Americans with Disabilities Act (ADA)-conforming wheelchair ramps. The Notice to Proceed will be issued on or about July 9, 2004. This project has been given 150 calendar days for completion. The project was advertised in the Columbus City Bulletin and Dodge Reports and by the Builders Exchange and was let by the Transportation Division. Fourteen bidders/suppliers were solicited (11 majority, 3 minority) and seven bids were received (7 majority, 0 minority) and tabulated on April 22, 2004 as follows:

**Contractor / Bid Amount**

Shelly and Sands, Incorporated / \$3,374,470.10  
Miller Pavement Maintenance / \$3,486,389.65  
Decker Construction Company / \$3,757,251.28  
The Shelly Company / \$3,765,659.06  
Kokosing Construction Company, Incorporated / \$3,785,233.66  
Columbus Asphalt Pavement / \$3,824,450.75  
Strawser Paving Company, Incorporated / \$3,838,605.01

The division recommends that the contract be awarded to Shelly and Sands, Incorporated, Contract Compliance No. 31-4351261 (expiring January 28, 2005), as being the lowest, best, most responsive and most responsible bid.

**Fiscal Impact:** The total cost of this contract including construction inspection is \$3,674,091.10. Ohio Public Works Commission funding is available in the amount of \$1,283,940.52 for wheelchair ramp construction associated with this project. The balance of \$2,390,150.58 is financed using all remaining unencumbered cash available to the Transportation Division within the 1995, 1999 Voted Streets and Highways Fund (\$849,892.56) and a certification against the Special Income Tax Fund in the amount of \$1,540,258.02. The Special Income Tax Fund certification is a temporary measure until the City sells notes or bonds to fund this capital improvement. This ordinance transfers cash between projects within the 1995, 1999 Voted Streets and Highways Fund, provides for the Special Income Tax Fund transfer and appropriation, transfers the city match money to the Local Transportation Improvement Program Fund, appropriates the city match and OPWC money within that Fund and authorizes the contract and expenditure of funds. Presently \$309,621.87 resides in the resurfacing project in the 1995, 1999 Voted Streets and Highways Fund.

**Emergency action** is requested so that resurfacing can begin and be completed within the 2004 construction season.

TitleTo authorize the City Auditor to transfer \$540,270.69 between projects within the 1995, 1999 Voted Streets and Highways Fund; to appropriate and authorize the City Auditor to transfer \$1,540,258.02 from the Special Income Tax Fund to the 1995, 1999 Voted Streets and Highways Fund; to authorize the City Auditor to transfer \$2,390,150.58 from the 1995, 1999 Voted Streets and Highways Fund to the Local Transportation Improvement Program Fund; to appropriate \$3,674,091.10 within the Local Transportation Improvement Program Fund; to authorize the Public Service Director to enter into contract with Shelly and Sands, Incorporated, for the Resurfacing 2004 Project 1 (OPWC) project for the Transportation Division; to authorize the expenditure of \$3,674,091.10 from the Local Transportation Improvement Program Fund, and to declare an emergency. (\$3,674,091.10)

Body**WHEREAS**, bids were received and tabulated on April 22, 2004, for the Resurfacing 2004 Project 1 (OPWC) project, and

**WHEREAS**, the Transportation Division recommends acceptance of the lowest, best, most responsive and most responsible bid submitted by Shelly and Sands, Incorporated, and

**WHEREAS**, it is necessary to provide for construction inspection costs, and

**WHEREAS**, it is necessary to both appropriate funds from the Special Income Tax Fund and transfer said funds into the 1995, 1999 Voted Streets and Highways Fund, and

**WHEREAS**, the City will sell notes or bonds for the aforementioned project and will reimburse the Special Income Tax Fund, this transfer should be considered as a temporary funding method, and

**WHEREAS**, the aggregate principal amount of obligations which the City will issue to finance this project is presently expected not to exceed \$1,540,258.02, and

**WHEREAS**, an emergency exists in the usual daily operation of the Transportation Division, Public Service Department, in that the contract should be awarded immediately so that resurfacing can begin and be completed within the 2004 construction season, thereby preserving the public health, peace, property, safety and welfare; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the City Auditor be and hereby is authorized to transfer \$540,270.69 between projects within Fund 704, the 1995, 1999 Voted Streets and Highways Fund, Department No. 59-09, Transportation Division, as follows:

**TRANSFER FROM**

**Project # / Project / O.L. One / O.L. Three Codes / OCA Code / Amount**

440104 / Miscellaneous Economic Development / 06 / 6600 / 644385 / \$35,108.45  
530021 / Urban Infrastructure / 06 / 6600 / 644385 / \$10.00  
530058 / Neighborhood Commercial Revitalization / 06 / 6600 / 644385 / \$10,000.00  
530086 / Miscellaneous Intersection Improvements / 06 / 6600 / 644385 / \$200.00  
530161 / Roadway Improvements / 06 / 6600 / 644385 / \$449,864.22  
530801 / Downtown Streetscapes / 06 / 6600 / 644385 / \$44,647.68  
540003 / Computerized Signals / 06 / 6600 / 644385 / \$440.34

**TOTAL TRANSFER FROM:** \$540,270.69

**TRANSFER TO**

**Project # / Project / O.L. One / O.L. Three Codes / OCA Code**

530282 / Resurfacing / 10 / 5501 / 644385 / \$540,270.69

**TOTAL TRANSFER TO:** \$540,270.69

**SECTION 2.** That the sum of \$1,540,258.02 be and hereby is appropriated from the unappropriated balance of Fund 430, the Special Income Tax Fund, and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2004, to the City Auditor, Department No. 22-01, Object Level One Code 10, Object Level Three Code 5502 and OCA Code 902023.

**SECTION 3.** That the City Auditor is hereby authorized to transfer and to appropriate said funds to Fund 704, the 1995, 1999 Voted Streets and Highways Fund, Department No. 59-09, Transportation Division, Object Level One Code 10, Object Level Three Code 5501, OCA Code 644385, Project 530282 (\$1,290,258.02) and Project 530210 (\$250,000.00) at such time as is deemed necessary by the City Auditor and to expend said funds, or so much thereof as may be necessary.

**SECTION 4.** That the City Auditor is authorized to establish proper project accounting numbers as appropriate.

**SECTION 5.** That upon obtaining other funds for the Resurfacing 2004 Project 1 (OPWC) project, the City Auditor is hereby authorized to repay the Special Income Tax Fund the amount transferred under Section 3 above, and said funds are hereby deemed appropriated for such purpose.

**SECTION 6.** That the City Auditor is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds transferred in Section 3, above.

**SECTION 7.** That the City intends that this ordinance constitute an "official intent" for purposes of Section 1.150-2(e) of the Treasury Regulations promulgated pursuant to the Internal Revenue Code of 1986, as amended.

**SECTION 8.** That monies be transferred between Funds as follows:

**TRANSFER FROM:**

**Fund / Project # / Project / O.L. 01 / O.L. 03 Codes / OCA Code / Amount**

704 / 530282 / Transfer / 10 / 5501 / 644385 / \$2,140,150.58  
704 / 530210 / Transfer / 10 / 5501 / 644385 / \$250,000.00

**Total transfer from:** \$2,390,150.58



**TRANSFER TO:**

**Fund/ Grant # / Grant / O.L. 01 / O.L. 03 Codes / OCA Code / Amount**

763 / 563001 / Resurfacing / 80 / 0886 / 563001 / \$2,390,150.58

**Total transfer to:** \$2,390,150.58

**SECTION 9.** That the sum of \$3,674,091.10 be and hereby is hereby appropriated from the unappropriated balance of the Local Transportation Improvement Program Fund, Fund 763, and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2004, to Department No. 59-09, Transportation Division, Object Level One Code 06, Object Level Three Code 6631, OCA Code 563001 and Grant 563001.

**SECTION 10.** That the monies appropriated within the foregoing Section 9 shall be paid upon order of the Public Service Director and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

**SECTION 11.** That the Public Service Director be and hereby is authorized to enter into a contract with Shelly and Sands, Incorporated, 1515 Harmon Avenue, Columbus, Ohio 43223-3309, for the construction of the Resurfacing 2004 Project #1 - OPWC project in the amount of \$3,374,470.10 for the Transportation Division in accordance with the specifications and plans on file in the office of the Public Service Director, which are hereby approved, and to obtain and pay for the necessary inspection costs associated with the project up to a maximum of \$299,621.00 therefore.

**SECTION 12.** That for the purpose of paying the cost of the contract and inspection, the sum of \$3,674,091.10, or so much thereof as may be needed, is hereby authorized to be expended from the Local Transportation Improvement Project Fund, Fund 763, Transportation Division, Department No. 59-09, Object Level One Code 06, Object Level Three Code 6631, OCA Code 563001 and Grant 563001.

**SECTION 13.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 0992-2004

**Drafting Date:** 05/25/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

**Council Variance Application:** CV03-041

**APPLICANT:** Wood G P, Ltd.; c/o Donald Plank, Atty.; 145 East Rich Street; Columbus, Ohio 43215.

**PROPOSED USE:** Seven unit multi-family dwelling.

**ITALIAN VILLAGE AREA COMMISSION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. This Council Variance would permit the change of use of an existing commercial building to seven (7) dwelling units in the C-4, Commercial District. The C-4, Commercial District permits apartment uses only above commercial uses. A hardship exists in that the Council variance is the only process to permit dwelling units on the ground floor in the C-4, Commercial District. The proposed use is consistent with

residential uses in the immediate vicinity of the property.

**Title**

To grant a Variance from the provisions of Sections 3356.03, C-4 Permitted Uses, 3356.05 and C-4 District Development Limitations, of the Columbus City Codes for the property located at **33 WARREN STREET (43201)**, to permit seven (7) dwelling units in the C-4, Commercial District.

**Body**

**WHEREAS**, by application No. CV03-041, the owner of property at **33 WARREN STREET (43201)**, is requesting a Council Variance to permit seven (7) dwelling units in the C-4, Commercial District; and

**WHEREAS**, Section 3356.03, C-4, Permitted Uses, prohibits ground floor dwelling units, while the applicant proposes to change the use of the building for the use as seven (7) dwelling units in its entirety; and

**WHEREAS**, Section 3356.05, C-4, District Development Limitations, prohibits ground floor dwelling units, while the applicant proposes to change the use of the building in its entirety for seven (7) dwelling units; and

**WHEREAS**, the City Departments recommend approval of said ordinance because the proposed use is consistent with residential uses in the immediate vicinity of the property; and

**WHEREAS**, the Italian Village Area Commission recommends approval; and

**WHEREAS**, a hardship exists in that a Council Variance is the only process to permit dwelling units in the C-4, Commercial District when not located over ground floor commercial use; and

**WHEREAS**, the granting of said variance will not impair an adequate supply of light and air to adjacent properties or unreasonably increase the congestion of public streets, or unreasonably diminish or impair established property values within the surrounding area, or otherwise impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificate of Occupancy for the proposed use; and

**WHEREAS**, said variance will not adversely affect the surrounding property or surrounding neighborhood; and

**WHEREAS**, the granting of said variance will alleviate the difficulties encountered by the owners of the property located at **33 WARREN STREET (43201)**, in using said property as desired; now, therefore:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That variances from the provisions of Sections 3356.03, C-4, Permitted Uses and 3356.05, C-4, District Development Limitations of Columbus City Codes are hereby granted for the property located at **33 WARREN STREET (43201)**, insofar as said sections prohibit dwelling units in the C-4, Commercial District when not located over ground floor commercial uses; said property being more particularly described as follows:

Situated in the County of Franklin, City of Columbus and being further described as:

Being Lot Number Thirty-five (35) of WILLIAM G. GILL'S SECOND ADDITION to the City of Columbus, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 1, Page 280, Recorder's Office, Franklin County, Ohio.

**Section 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for seven dwelling units, or those uses permitted in the C-4, Commercial District.

**Section 3.** That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed use.

**Section 4.** The existing building occupies almost the entire parcel. Under the provisions of Title 13, the change of use to seven (7) dwelling units requires a dumpster, while there is no place on the property to place a dumpster. The Division of Refuse has approved and will place one or more 300 gallon containers in the alley right of way south of the property to provide refuse collection service for the property. Applicant acknowledges that all residents must carry their trash to the 300 gallon container(s) and will instruct residents accordingly. Applicant also has the right to opt-out of City of Columbus refuse collection through the use of a private hauler for collection of refuse using individual containers for each of the seven (7) dwelling units.

**Section 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

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**Legislation Number:** 1008-2004

**Drafting Date:** 05/27/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

**Background:** This ordinance authorizes and directs the Finance Director to issue blanket purchase orders for various automotive equipment parts, supplies and accessories, as well as repair services, for the Fleet Management Division without the use of formal competitive bidding. Given the diversity of the City's fleet, and the complexity of today's vehicles, it is not possible to anticipate all parts and service requirements. Because these various automotive parts and services are not available from Universal Term Contracts (UTC's) and because these parts and services must be procured within a short period of time, formal competitive bidding cannot always be accomplished. However, to ensure the best possible service prices, the Fleet Management Division solicits quotes by phone or in writing.

**Fiscal Impact:** This request is for \$505,000.00. The amounts are based on historical costs for like items and services and the division's estimate of needs for the next four months of 2004. Expenditures for like items and time frames were \$739,000.00 in 2003 and \$702,000.00 in 2002. Ordinance 0204-2004 passed Council on February 23, 2004, authorized \$722,000 for similar automotive parts and services.

**Emergency action** is requested to ensure uninterrupted parts deliveries and service repairs in order to maintain the City's rolling stock and subsequent prompt payments to suppliers.

### **Title**

To authorize and direct the Finance Director to issue blanket purchase orders for various automotive equipment parts, supplies, accessories and services for the Fleet Management Division, to authorize the expenditure of \$505,000.00 from the Fleet Maintenance Fund, to waive the competitive bidding requirements of the Columbus City Codes, and to declare an emergency. (\$505,000.00)

### **Body**

**WHEREAS,** various automotive equipment parts, supplies, accessories and services are not available on Universal Term Contracts (UTC's), and

**WHEREAS**, given the diversity of the City's vehicle fleet, the Fleet Management Division cannot reasonably anticipate all automotive parts and service requirements, and

**WHEREAS**, it is in the best interest of the City of Columbus to waive formal competitive bidding requirements for the purchase of various automotive equipment parts, supplies, accessories and services, and

**WHEREAS**, an emergency exists in the usual daily operation of the Fleet Management Division, Public Service Department, in that it is immediately necessary to arrange for the purchase of various automotive equipment parts, supplies, accessories and services to ensure timely maintenance is performed to minimize down time to the City's vehicle fleet thereby preserving the public health, peace, property, safety, and welfare, now, in which the emergency is set forth and defined in a preamble thereto, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Finance Director be and hereby is authorized and directed to establish various blanket purchase orders for automotive equipment parts, supplies, accessories and services without benefit of formal competitive bidding provided the Fleet Management Division Administrator first authorizes the purchase via the issuance of Fleet Management purchase orders and that the blanket purchase orders are certified from the Auditor's Certificate established by this ordinance and no single purchase exceeds \$20,000.00.

**Section 2.** That the vendors and amounts for parts, supplies and accessories will be certified from the Auditor's Certificate as follows:

<u>VENDOR</u>	<u>CC#</u>	<u>EXPIRES</u> <u>THREE CODE</u>	<u>OBJECT LEVEL</u>
Ace Truck Body	310936828	10/16/05	2284
Buckeye Power Sales	314365080	03/31/07	2284
Burdick Equipment Co	311232766	01/15/06	2284
Classic Solutions	310968164	01/12/06	2284
Consolidated Elect Dist	952563864	07/15/05	2284
Contract Sweepers	310780604	06/12/05	2284
Graham Ford	340901877	01/15/06	2284
Grainger	361150280	08/09/05	2288
J & M Auto Parts	311618481	01/15/06	2284
Keys Plus	301421108	02/02/05	2288
Motrim Inc	310670971	05/24/07	2284
OKI Systems	311522345	06/21/05	2284
Ohio Cat	340672363	06/05/06	2284
Principal Truck	341658635	04/22/07	2284
Rim & Wheel	311146717	02/19/05	2284
Tech Source	270528341	09/25/06	2288
United Landmark	200342040	05/21/07	2288
Utility Truck	310989420	02/13/05	2284
White Acres Imp	310910055	11/27/04	2284

**Section 3.** That the vendors and amounts for automotive services will be certified from the Auditor's Certificate as follows:

<u>VENDOR</u>	<u>CC#</u>	<u>EXPIRES</u> <u>THREE CODE</u>	<u>OBJECT LEVEL</u>
American Automatic	310994510	01/31/05	3373

B & C Communications	311736030	04/11/05	3373
Blackburn's Fabrication	311446789	01/18/05	3373
Byers Chevrolet	314139860	01/12/06	3373
Capitol City Cylinder	311160791	01/15/06	3373
Center City International	311048371	09/12/05	3373
Columbus Peterbilt	341285858	09/17/06	3373
Contract Sweepers	310780604	06/12/05	3373
Hydro Supply	311065617	02/15/05	3373
McNeilus Truck	411314526	05/17/07	3373
Nobles Inc	310787367	02/14/05	3373
Sutphen Corporation	310671786	9/28/04	3373
Wilson's Auto Service	310668047	02/19/05	3373

**Section 4.** That in accordance with Section 329.27 of the Columbus City Codes, the Columbus City Council finds it in the best interest of the City of Columbus to waive formal competitive bidding requirements as they pertain to the action authorized in Section 1 of this ordinance and that Sections 329.06 and 329.07 of the Columbus City Codes are hereby waived.

**Section 5.** That the expenditure of \$505,000.00, or so much thereof as may be needed, is hereby authorized and directed to be expended from the Fleet Management Fund 513, Department No. 59-05, OCA Code 591347, Object Level One 02 and 03 as follows, to pay the cost thereof:

<u>Object Level Three Code</u>	<u>Amount</u>
2284	\$ 202,000.00
2288	<u>\$ 23,000.00</u>
Object Level One 02 Total	\$225,000.00
3373	<u>\$ 280,000.00</u>
Object Level One 03 Total	\$505,000.00

**Section 6.** That for the reasons set forth in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.

**Legislation Number:** 1010-2004

**Drafting Date:** 05/27/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

BACKGROUND: For the option to purchase Vehicle Washing Services for the Fleet Management Division, the largest user. The term of the proposed option contract would be two years with the option to renew for two additional years. Contract is through May 31, 2006., with the extension through May 31, 2008. The Purchasing Office opened formal bids

on April 22, 2004.

The Purchasing Office advertised and solicited competitive bids in accordance with Section 329.06 (Solicitation No. SA001093. Thirty (MAJ:24, MBE:6, FBE:0) bids were solicited; five (MAJ:3, FBE:0, MBE:2) bids were received.

The Purchasing Office is recommending award of the contract to the low bidder:

Custom Detailing Inc., FBE, CC#1585664

Total Estimated Annual Expenditure: \$20,000.00. This company is not on the Auditor of State Findings For Recovery Database.

FISCAL IMPACT: Funding to establish this option contract is budgeted in the Purchasing Contract Account. The Fleet Management Division will be required to obtain approval to expend from their own appropriations for their estimated annual expenditures.

**Title**

To authorize and direct the Finance Director to enter into one contract for the option to purchase Vehicle Washing Services for Fleet Management Division with Custom Detailing Inc., to authorize the expenditure of one dollar to establish the contract from the Purchasing/Contract Operation Fund. (\$1.00)

**Body**

WHEREAS, the Purchasing Office advertised and solicited formal bids on April 22, 2004 and selected the lowest bid; and

WHEREAS, this ordinance addresses Purchasing objective of 1) maximizing the use of City resources by obtaining optimal products/services at low prices and 2) encouraging economic development by improving access to City bid opportunities and 3) providing effective option contracts for City agencies to efficiently maintain their supply chain and service to the public; and

WHEREAS, in order to establish a supply matrix for the Purchase of Vehicle Washing Services for the Fleet Management Division, this is being submitted for consideration; and

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Finance Director be and is hereby authorized and directed to enter into the following contract for an option to purchase Vehicle Washing Services for the Fleet Management Division in accordance with Solicitation No. SA001093 as follows:

Custom Detailing Inc., Items: All Items, Amount: \$1.00

SECTION 2. That the expenditure of \$1.00 is hereby authorized from Purchasing Contract Account, Organization Level 1: 45-01, Fund: 05-517, Object Level 3: 2270, OCA: 451130, to pay the cost thereof.

SECTION 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

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**Legislation Number:** 1012-2004

**Drafting Date:** 05/27/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

BACKGROUND: Agreements between the Franklin County Municipal Court Clerk and National City Bank were entered into that collectively formed the basis for the agreement to pay for the banking services for the Franklin County Municipal Court Clerk through June 30, 2005. The documents that form the agreement are: A Memorandum of Agreement for

Deposit of Public Funds was entered into between the Franklin County Municipal Court Clerk and National City Bank for the term June 1, 2002 through June 30, 2005; a Merchant Services Agreement with National Processing Company, LLC (NCP) for Card Processing Agreement, Debit Card Agreement, and Equipment Agreement, entered into June, 2002; and a letter dated March 11, 2002 between National City Bank and the Clerk's office.

This modification is to increase the maximum allowable amount on the contract to cover anticipated expenditures through June 30, 2005. National City Bank's compliance number is 314270685.

1. Amount of additional funds: The estimated annual expenditure for the contract is \$78,000.00 for the term of the agreement from the Municipal Court Clerk General Fund.
2. Reason additional needs were not foreseen: The need was foreseen. The contract dollar volume is funded annually but the agreement is valid through June 30, 2005.
3. Reason other procurement processes not used: We currently are under contract for the service.
4. How cost was determined: The cost, terms and conditions are in accordance with the original agreement.

FISCAL IMPACT: Funding to increase this contract is available in the Franklin County Municipal Court Clerk General Fund.

To maintain an uninterrupted services to the Franklin County Municipal Court, this ordinance is be submitted as an emergency.

#### Title

To authorize and direct the Director of the Department of Finance on behalf of the Franklin County Municipal Court Clerk to modify the agreement and issue a blanket purchase order to the National City Bank for the purpose of paying for banking services, to authorize the expenditure of \$78,000.00 from the General Fund, and to declare an emergency.(\$78,000.00)

#### Body

WHEREAS, the Franklin County Municipal Court Clerk entered into agreements for bank services; and

WHEREAS, additional funding is required to meet estimated expenditures; and

WHEREAS, in order to avoid a lapse in our ability to obtain bank services, this is being submitted for approval as an emergency measure; and

WHEREAS, an emergency exists in the usual daily operation of the Franklin Municipal Court Clerk's office in that it is immediately necessary to extend the agreements for bank services thereby preserving the public health, peace, property, safety, and welfare, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Director of Finance be and is hereby authorized on behalf of the Municipal Court Clerk to issue a blanket purchase order to National City Bank for \$78,000.00 to pay bank fees through June 1, 2005.

SECTION 2. That this modification is in accordance with Section 329.16 of the Columbus City Codes.

SECTION 3. That the expenditure of \$78,000.00 or so much thereof as may be needed to pay the cost thereof is hereby authorized to be paid from the Municipal Court Clerk General Revenue Fund, Fund 010, Organization One 2601, OCA 260166, Object Level One 03, Object Level Three 3348.

SECTION 4. That for reasons stated in the preamble hereto, which is hereby made a part hereof, this resolution is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

**Legislation Number:** 1022-2004

**Drafting Date:** 05/28/2004

**Version:** 2

**Current Status:** Passed

**Matter Type:** Ordinance

### Explanation

**BACKGROUND:** The Division of Water purchased a new telephone system for the Customer Service activities in 2000 from Astute, Inc. We have been very pleased with the system and would like to expand it into other sections. To do so, we need to purchase additional software licenses. Therefore, we would like to modify original contract number FL000623, with Astute, Inc., in order to purchase these licenses. The Contract Compliance Number for Astute, Inc. is 31-1453471. They do not have certified MBE/FBE status.

1. The amount of additional funds needed for this contract is \$30,385.00. The original contract was established for \$265,601.00. There has been a total of \$158,871.00 in modifications. The total cost of the original contract and all modification is ~~\$189,256.00~~ **454,857.00**.
2. The need for these licenses was not known at the time of the original contract as the phone system was primarily for the Customer Services activities. Because we are pleased with the system and its performance, we would like to expand it to another activity.
3. It would be unreasonable to bid these licenses out to another vendor as we are adding to the current system provided by Astute. The vendor has managed the phone system for the last four years.
4. The cost of these additional software licenses is based on a quote received by Astute, Inc.

It is requested that this Ordinance be handled in an emergency manner, as we are unable to optimize the efficiency of the system without the flexibility of additional licenses.

**FISCAL IMPACT:** The Division of Water did not allocate any funds for these licenses and in the 2004 Budget. We will reprioritize Object Level One "03" expenditures in order to cover this purchase.

There were no expenditures related to this phone system in 2003.  
\$110,971.00 was spent in 2002 for an upgrade to the phone system in 2002.

### Title

To authorize the Director of Public Utilities to modify the contract with Astute, Inc., to purchase additional software licenses for the telephone system, for the Division of Water, to authorize the expenditure of \$30,385.00 from Water Systems Operating Fund, and to declare an emergency. (\$30,385.00)

### Body

WHEREAS, the Division of Water purchased a new telephone system for the Customer Services activities in 2000 from Astute, Inc., and

WHEREAS, we have been very pleased with the system and would like to expand it into other sections, and

WHEREAS, to do so, we need to purchase additional software licenses, and

WHEREAS, an emergency exists in the usual daily operation of the Division of Water, Department of Public Utilities, in that it is immediately necessary to authorize the Director of Public Utilities to enter into a contract, with Astute, Inc., to purchase additional software licenses for our telephone system, as we are unable to optimize the efficiency of the system without the flexibility of additional licenses, for the immediate preservation of public health, peace, property and safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:



Section 1. That the Director of Public Utilities be and is hereby authorized to enter into a contract with Astute, Inc., to purchase additional software licenses for our telephone system, for the Division of Water, Department of Public Utilities.

Section 2. That the expenditure of \$30,385.00 or as much thereof as may be needed is hereby authorized from Water Works Fund 600, Department 60-09, OCA Code 602995, Object Level One 03, Object Level Three 3358, to pay the cost thereof.

Section 3. That for reasons stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1026-2004

**Drafting Date:** 06/01/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

Westbelt Business Park West is a 492-acre site located north of Roberts Road and east of Walcutt Road. In 1980 this property was zoned M-1, Manufacturing District. In 1981 the property was platted and the plat recorded in Plat Book 58, Page 75, Franklin County, Ohio, Recorder's Office. In the plat dedication, the property owner waived and released any right of direct access to Roberts Road and agreed to limit direct vehicular access to three (3) access points along Walcutt Road. As the property has developed the three (3) previously agreed to curb cuts along Walcutt Road have been granted. At this time a five-acre site fronting on Walcutt Road is being proposed for development and one (1) additional curb cut onto Walcutt Road has been requested. The Public Service Department, Transportation Division, has reviewed this request and has determined that, pending receipt of a fully completed application, there is no objection to the granting of a fourth vehicular access point onto Walcutt Road across from the intersection of Hilliard Oaks Drive. In order to grant a permit for this fourth vehicular access point, it will be necessary for the Public Service Director to execute a document to be recorded in the Franklin County, Ohio, Recorder's Office that evidences the City's modification of the vehicular access restrictions to Walcutt Road in the Westbelt Business Park West plat from a total of three (3) to a total of four (4) points.

**Emergency Justification:** Transfer and development of the above referenced five-acre site is contingent upon approval of the additional vehicular access point and the necessary curb cut. Emergency action is being requested to allow the proposed transfer and development of this site to proceed as currently scheduled.

d

**Title**

To authorize the Public Service Director to execute those documents required to allow one additional vehicular access point along Walcutt Road from that property identified as The Westbelt Business Park West on the plat of record in Plat Book 58, Page 75, Franklin County, Ohio, Recorder's Office; and to declare an emergency.

**Body**

**WHEREAS,** Westbelt Business Park West is a 492 acre site located north of Roberts Road and east of Walcutt Road; and

**WHEREAS,** in 1980 this property was zoned M-1, Manufacturing District; and

**WHEREAS,** in 1981 the property was platted and the plat recorded in Plat Book 58, Page 75, Franklin County, Ohio, Recorder's Office; and

**WHEREAS,** in the plat dedication the property owner waived and released any right of direct access to Roberts Road and

agreed to limit direct vehicular access to three (3) access points along Walcutt Road; and

**WHEREAS**, as the property has developed the three (3) previously agreed to curb cuts along Walcutt Road have been granted; and

**WHEREAS**, at this time a five-acre site fronting on Walcutt Road is being proposed for development and one (1) additional curb cut onto Walcutt Road has been requested; and

**WHEREAS**, the Public Service Department, Transportation Division, has reviewed this request and has determined that, pending receipt of a fully completed application, there are no objections to the granting of a fourth vehicular access point onto Walcutt Road across from the intersection of Hilliard Oaks Drive; and

**WHEREAS**, in order to grant a permit for this fourth vehicular access point it will be necessary for the Public Service Director to execute a document to be recorded in the Franklin County, Ohio, Recorder's Office that evidences the City's modification of the vehicular access restrictions to Walcutt Road in the Westbelt Business Park West plat from a total of three (3) to a total of four (4) points; and

**WHEREAS**, an emergency exists in the usual daily operation of the Public Service Department, Transportation Division, in that it is immediately necessary to authorize the Public Service Director to execute those documents, prepared and approved by the Department of Law, Real Estate Division, necessary to allow one additional vehicular access point along Walcutt Road from that property identified as The Westbelt Business Park West on that plat of record in Plat Book 58, Page 75, Franklin County, Ohio, Recorder's Office so that the proposed transfer and development of the above referenced five-acre site may proceed as currently scheduled for the immediate preservation of the public health, peace, property, safety and welfare the following legislation authorizes the; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Public Service Director be and is hereby authorized to execute those documents prepared and approved by the Department of Law, Real Estate Division, necessary to allow one additional vehicular access point along Walcutt Road from that property identified as The Westbelt Business Park West on that plat of record in Plat Book 58, Page 75, Franklin County, Ohio, Recorder's Office.

**Section 2.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1030-2004

**Drafting Date:** 06/01/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

**BACKGROUND:**

Need: An appropriation is needed for the ongoing Bulletproof Vest Partnership (BVP) program. This federal program provides funds directly to units of local government to assist in equipping law enforcement officers with armor vests. The program is designed to pay up to 50% of the approved application vests. Due to limited program funding only a partial award has been received after the purchases have been completed. This appropriation is needed to utilize the funding award for the continuing purchase of uniform items.

**FISCAL IMPACT:** There is no impact for the City General Fund Account since the funds will come from the BVP Grant

Fund.

**Title**

To authorize an appropriation of \$13,283.37 from the unappropriated monies in the FY2004 Bulletproof Vest Partnership grant fund. (\$13,283.37)

**Body**

WHEREAS, the City of Columbus Division of Police has applied for and been awarded partial federal funding through the FY2004 Bulletproof Vest Partnership grant program; and

WHEREAS, the Division of Police has continued and additional uniform needs; now therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That from the unappropriated monies in the FY2004 Bulletproof Vest Partnership grant funds and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the grant period, the sum of \$13,283.37 is appropriated as follows:

<u>DIV</u>	<u>FD</u>	<u>OBJ#1</u>	<u>OBJ#3</u>	<u>OCACD</u>	<u>GRANT</u>	<u>AMOUNT</u>
30-03	220	02	2221	334003	334003	13,283.37

Section 2. That the monies appropriated in the foregoing Section 1 shall be paid upon order of the Director of Public Safety; and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

**Legislation Number:** 1073-2004

**Drafting Date:** 06/07/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

This consent legislation authorizes the Public Service Director to execute a Local Project Administration (LPA) agreement with the Ohio Department of Transportation for the Morse Road Phase II project. The Federal Highway Administration has earmarked \$1,491,150.00 to the City of Columbus for the Morse Road Phase II project from its appropriation within the 2004 Omnibus Transportation Act. The Morse Road project is designed to promote neighborhood livability, pedestrian friendliness and business retention and expansion. This roadway improvement project provides for landscaping, median, pavement and drainage improvements, bike lanes, sidewalks, mast arm traffic signals, traffic control signing/stripping, street lighting, new curbs and other improvements. This phase of the Morse Road project extends from Karl Road to Cleveland Avenue. This agreement outlines the responsibilities of each party.

The City will assume and bear one hundred percent (100%) of the total cost of the project not covered by the Omni Transportation Act appropriation. The City will be the lead agent for this project. No financial participation is required by the City at this time.

**Emergency action** is requested to keep this project on schedule and budget.

d

**Title**

To authorize the Public Service Director to enter into an agreement with the Ohio Department of Transportation for the City to act as the Local Project Administrator for the Morse Road Phase II - Karl Road to Cleveland Avenue project for the Transportation Division, and to declare an emergency. (\$-0-)

**Body**

**WHEREAS**, the City has identified the need for, and proposes the improvement of a portion of public highway which is described as follows:

Morse Road Phase II - Karl Road to Cleveland Avenue project - which includes: landscaping, median, pavement and drainage improvements, bike lanes, sidewalks, mast arm traffic signals, traffic control signing/stripping, street lighting, new curbs and other improvements.

with portions of said highway within the municipal corporation limits being hereinafter referred to as the improvement; and

**WHEREAS**, the City further desires cooperation from Ohio Department of Transportation in the design and construction of said improvement; and

**WHEREAS**, an emergency exists in the City of Columbus, Public Service Department in that it is immediately necessary to grant consent for this project so it can proceed according to the established time lines to keep this project on schedule and budget, thereby preserving the public health, peace, property, safety and welfare; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the Public Service Director be and hereby is authorized on behalf of the City to enter into a Local Project Administration agreement with the Ohio Department of Transportation necessary to complete the design and construction of the Morse Road Phase II - Karl Road to Cleveland Avenue project.

**SECTION 2.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1083-2004

**Drafting Date:** 06/08/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

INTRUST LAND DEVELOPMENT COMPANY, by FRANK CIPRIANO, President, has submitted the plat titled HARTMAN PONDS SECTION 1 to the City Engineer's Office for review and approval. This plat has been reviewed and approved by the City Engineer. The following legislation allows the City to accept said plat for property located south off of Rathmell Road and west of Parsons Avenue.

**Title**

To accept the plat titled HARTMAN PONDS SECTION 1, from INTRUST LAND DEVELOPMENT COMPANY, by FRANK CIPRIANO, President.

WHEREAS, the plat titled HARTMAN PONDS SECTION 1 (hereinafter "plat"), has been submitted to the City Engineer's Office for approval and acceptance; and

WHEREAS, INTRUST LAND DEVELOPMENT COMPANY, by FRANK CIPRIANO, President, owner of the platted land, desires to dedicate to the public use all or such parts of the Drives and Streets and Lanes shown on said plat and not heretofore so dedicated; and

WHEREAS, after examination, it has been found to be in the best interest of the City to accept said plat; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the plat titled HARTMAN PONDS SECTION 1 on file in the office of the City Engineer, Transportation Division, be and the same is hereby accepted.

**Section 2.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

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**Legislation Number:** 1086-2004

**Drafting Date:** 06/08/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

**BACKGROUND:**

Need: An additional appropriation of Law Enforcement Contraband Seizure Funds is needed to purchase crime prevention safety materials for the Division of Police's Strategic Response Bureau.

Contract Compliance No.: N/A

Emergency Designation: Emergency legislation is requested so the funds can become available to purchase the materials as soon as possible.

**FISCAL IMPACT:**

Since the funds to be appropriated are from the Law Enforcement Contraband Seizure Funds, there will be no effect on the financial status of the General Fund Budget.

**Title**

To authorize an appropriation of \$25,450.00 from the unappropriated balance of the Law Enforcement Contraband Seizure Fund, to purchase crime prevention safety materials for the Division of Police; and to declare an emergency; (\$25,450.00)

**Body**

WHEREAS, monies were received from seized and forfeited property; and

WHEREAS, funds received from these forfeitures must be solely used for law enforcement purposes as specified in Ordinance #1850-85; and

WHEREAS, an emergency exists in the usual operation of the Division of Police, Department of Public Safety, in that it is immediately necessary to appropriate funds to purchase crime prevention safety materials for the preservation of the public health, peace, property, safety and welfare; now therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That from the unappropriated monies in Law Enforcement Drug Seizure Fund, and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2004 the sum of \$25,450.00 is appropriated as follows:

DIV	FUND	OBJ LEVEL (1)	OBJ LEVEL (3)	OCA#	AMOUNT
30-03	219	02	2290	301838	\$25,450.00

Section 2. That the monies appropriated in the foregoing Section shall be paid upon order of the Director of Public Safety; and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

Section 3. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be enforced from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1089-2004

**Drafting Date:** 06/08/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

**[BACKGROUND:** The following is an ordinance to authorize and direct the City Attorney to acquire options to purchase fee simple title, contract for professional services, and to expend the monies for payment of such services and payment of options in connection with the King Lincoln District Acquisition Project #441738.

**FISCAL IMPACT:** The \$100,000 will come from the Special Income Tax Fund. This legislation authorizes the appropriation, transfer and the expenditure of funds. This transfer from the Special Income Tax Fund is only a temporary funding measure until bonds are sold in 2004 at which time the Special Income Tax Fund will be reimbursed for this transaction. Total purchase costs, including the amounts authorized by this ordinance, are currently not anticipated to exceed \$500,000.00.

**EMERGENCY JUSTIFICATION:** Emergency action is requested in order to allow the purchase of the real property without delay to meet the proposed schedule for redevelopment and revitalization of the King Lincoln District.

**Title**

To authorize the City Attorney to acquire options to purchase fee simple title, contract for professional services, to authorize the appropriation and to authorize the City Auditor to transfer \$100,000 from the Special Income Tax Fund to the Northland and Other Acquisition Fund for costs in connection with the King Lincoln District Acquisition Project; to authorize the expenditure of \$100,000; and to declare an emergency (\$100,000).

**Body**

WHEREAS, the City of Columbus desires to acquire real property and contract for professional services for the King Lincoln District Acquisition Project; and

WHEREAS, the real property being purchased is for redevelopment within the King Lincoln District Acquisition Project area; and

WHEREAS, it is necessary to appropriate and transfer \$100,000.00 from the Special Income Tax Fund to the Northland and Other Acquisition Fund and to expend the same; and

WHEREAS, the City will sell notes or bonds to fund this project and will reimburse the Special Income Tax Fund, and this transfer should be considered as a temporary funding method; and

WHEREAS, the current estimate provided to the City Attorney to complete the purchases of properties identified for acquisition is not anticipated to exceed \$400,000.00, such that total project costs, if all purchases are approved by Council, will be \$500,000.00; and

WHEREAS, the exercise of any option to purchase shall be contingent upon future ordinances appropriating and authorizing the expenditure of such funds as are necessary for such purchases; and

WHEREAS, an emergency exists in the usual daily operation of the City in that it is necessary to acquire fee simple title in certain parcels of real estate and to contract for the professional services necessary in connection with the acquisitions of identified properties to provide for the timely redevelopment and revitalization of the King Lincoln District and for the immediate preservation of the public health, peace, property and safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That the City Attorney is authorized to acquire options to purchase real property and contract for professional services for the King Lincoln District Acquisition Project. The exercise of any option to purchase shall be subject to the future passage of such ordinances as are necessary to appropriate and authorize the expenditure of such funds as are necessary to complete the purchases in accordance with the executed options.

Section 2. That the sum of \$100,000.00 is hereby appropriated from the unappropriated balance of the Special Income Tax Fund no. 430, and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purchase during the fiscal year ending December 31, 2004, to the City Auditor, Dept./Div. No. 22-01, Object Level One 10, OCA 902023, Object Level Three, 5502.

Section 3. That the City Auditor is hereby authorized to transfer said funds to the Northland and other Acquisition Fund No. 735, Project No. 441738, at such time as is deemed necessary by the City Auditor, and to expend \$100,000.00 or so much thereof as may be necessary.

Section 4. That the amount of \$100,000.00 is hereby appropriated to the Northland and Other Acquisition Fund, Fund 735, Capital Projects, Department 44-01, Project 441738, King Lincoln District Acquisition, Object Level Three 6601, OCA Code 441738.

Section 5. That the expenditure of \$100,000.00, or so much thereof as may be necessary, be and is hereby authorized from the Northland and Other Acquisition Fund, Fund 735, Capital Projects, Department 44-01, Project 441738, King Lincoln District Acquisition, Object Level Three 6601, OCA Code 441738.

Section 6. That the City Auditor is hereby authorized to transfer the unencumbered balance account within the same fund upon receipt of certification by the Director of the Department administering said project that the project has been

completed and the monies are no longer required for said project; except that no transfer shall be so made from a project account funded by monies from more than one source.

Section 7. That upon obtaining other funds for this project, the City Auditor is hereby authorized to repay the Special Income Tax Fund the amount transferred under Section 3 above, and said funds are hereby deemed appropriated for such purpose.

Section 8. That the City Auditor is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with the expenditure of the funds transferred in Section 3 above.

Section 9. That the City intends that this ordinance constitute an "official intent " for purposes of Section 1.150-2(e) of the Treasury Regulations promulgated pursuant to the Internal Revenue Code of 1986, as amended.

Section 10. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1090-2004

**Drafting Date:** 06/08/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**Background

This ordinance authorizes the City Auditor to enter into an understanding with the Franklin County Auditor and agrees to the clarification of the Tax Commissioner of the State of Ohio with respect to the allocation of valuation of parcels within the Tax Increment Financing (TIF) Districts in Franklin County.

Fiscal Impact

Ensures continuation of intended disbursement of TIF revenues in Franklin County.

**Title**To authorize the City Auditor to enter into an understanding with the Franklin County Auditor agreeing to the clarification of the Tax Commissioner of the State of Ohio.

**Body**Whereas, the Tax Commissioner of the State of Ohio has issued a clarification for an alternative calculation for allocation of valuation of parcels within Tax Increment Financing Districts in specialized circumstances; and,

Whereas, it is necessary and advisable that the City Auditor be authorized to enter into an understanding with the Franklin County Auditor which agrees to such clarification, and to provide for such allocations of valuations in an expeditious manner; Now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS, OHIO:

Section 1. That the City Auditor be and hereby is authorized to enter into an understanding with the Franklin County Auditor to clarify and confirm the procedure for the allocation of valuation of parcels within Tax Increment Financing Districts and to agree to the clarification of the Tax Commissioner of the State of Ohio in that regard.

Section 2. That revenue resulting from various adjustments pursuant to the Tax Commissioner's clarification shall be forwarded from the Franklin County Auditor to the City in the first half of 2005.

Section 3. Such revenues and adjustments will be effective with the first half 2005 payments to the City and not affect



payments of any period prior thereto.

Section 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

---

**Legislation Number:** 1091-2004

**Drafting Date:** 06/08/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

#### **BACKGROUND**

This ordinance authorizes the appropriation and expenditure of FY 2003 and 2004 HOME monies earmarked as the American Dream Down Payment Initiative (ADDI) within the HOME Investment Partnerships Program for the Department of Development. The funds will assist first time, low and moderate-income homebuyers to purchase homes within the city of Columbus. This ordinance is in accordance with Ordinance No. 0725-04, passed April 19, 2004, authorizing the amendment to 2000-2004 Consolidated Plan as submitted to the U.S. Department of Housing and Urban Development (HUD).

Emergency action is requested to allow for payment of projects currently under consideration at this time.

#### **FISCAL IMPACT**

The City of Columbus was awarded \$727,047 by HUD to fund first time homebuyer activities under the HOME Investment Partnerships Program and particularly the ADDI. This ordinance requests the appropriation and expenditure of \$727,047 from the total FY 2003 and 2004 HOME ADDI entitlement of \$727,047.

#### **Title**

To authorize the appropriation and expenditure of \$727,047 from the HOME Fund to the Department of Development to provide funding for the American Dream Down Payment Initiative (ADDI); and to declare an emergency. (\$727,047)

#### **Body**

**WHEREAS**, it is necessary to appropriate funds from the unappropriated balance of the 2003 and 2004 HOME Fund to the Department of Development to support the American Dream Down Payment Initiative (ADDI); and

**WHEREAS**, these funds will be used to assist first time, low and moderate income homebuyers to purchase a home within the city of Columbus; and

**WHEREAS**, emergency action is requested in order to process applications that have already been received by the Housing Division; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Development, Housing Division, in that it is immediately necessary to appropriate and expend said funds thereby preserving the public health, peace, property, safety, and welfare; and **NOW, THEREFORE**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS**

**Section 1.** That from the unappropriated monies in the fund known as the HOME Fund, Fund No. 201, Grant 458001 and from all monies estimated to come into said fund from any and all sources during the 12 months ending December 31, 2004, be and are hereby appropriated to Division 44-10, Object Level One 05, Object Level Three 5519 as follows:

<u>PROGRAM</u>	<u>OCA</u>	<u>CODE</u>	<u>AMOUNT</u>
2003 American Dream Down Payment Initiative (ADDI)		443134	\$333,503
2004 American Dream Down Payment Initiative (ADDI)		444134	<u>\$393,544</u>
<b>TOTAL FUND NO. 201.....</b>			<b>\$727,047</b>

**Section 2.** That the monies appropriated in the foregoing Section 1 shall be paid upon the order of the Director of the Department of Development and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

**Section 3.** That the Director of the Department of Development is hereby authorized to provide grants to first time low and moderate income homebuyers for the purchase of homes within the city of Columbus.

**Section 4.** That for the purpose as stated in Section 3, the expenditure of \$727,047 or so much thereof as may be necessary, is hereby authorized from the Department of Development, Division 44-10, Fund 201, Grant 458001, Object Level One 05, Object Level Three 5519 as follows:

<u>PROGRAM</u>	<u>OCA</u>	<u>CODE</u>	<u>AMOUNT</u>
2003 American Dream Down Payment Initiative (ADDI)		443134	\$333,503
2004 American Dream Down Payment Initiative (ADDI)		444134	<u>\$393,544</u>
<b>TOTAL FUND NO. 201.....</b>			<b>\$727,047</b>

**Section 5.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

**Legislation Number:** 1095-2004

**Drafting Date:** 06/09/2004

**Current Status:** Passed

**Version:** 2

**Matter Type:** Ordinance

### **Explanation**

Significant health concerns exist surrounding secondhand smoke. These include the recent finding by the United States Centers for Disease Control states that between 38,000 and 62,000 non-smoking Americans die every year from exposure to secondhand smoke; and the US Environmental Protection agency's classification of secondhand smoke as a "Class A Carcinogen." Such evidence has promoted health advocacy organizations to more aggressively promote public policy that restricts or prohibits smoking in public places.

In June, 2004 the Smoke-Free Columbus Coalition presented City Council its report and recommendations to pursue such policy in Columbus. Two public hearings by Council and electronic and phone options were made available to encourage the public and interested parties to submit testimony and thoughts on the matter.

This legislation, commonly known as the Smokefree Indoor Air Act of 2004, amends City Code Title 7 to enact a new Chapter to prohibit smoking in public places and places of employment.

### **Title**

To amend Title 7 of the Columbus City Codes, 1959, by enacting new Chapter 715, which prohibits smoking in public places and places of employment.

### **Body**

**WHEREAS**, in the past twenty-five years more than 1,000 papers and studies have been published about secondhand smoke demonstrating severe and pervasive injury to those exposed; and

**WHEREAS**, the United States Centers for Disease Control states that between 38,000 and 62,000 non-smoking Americans die every year from exposure to secondhand smoke; and

**WHEREAS**, secondhand smoke contains over 4000 chemical compounds, 200 of which are known poisons including carbon monoxide, arsenic, cyanide, benzene and formaldehyde; and

**WHEREAS**, secondhand smoke is classified as a "Class A Carcinogen" by the US Environmental Protection agency and, by definition, there is no safe level of exposure to a class A carcinogen; and

**WHEREAS**, secondhand smoke has been shown to substantially increase the risk of lung cancer, nasopharyngeal cancer, breast cancer, heart disease in adults and sudden infant death syndrome, asthma and airway disease in children; and

**WHEREAS**, nonsmoking workers chronically exposed to secondhand smoke are on average 1/3 more likely to get lung cancer than those who aren't exposed; and

**WHEREAS**, everyone has the right to breathe clean indoor air in public places and workplaces; and

**WHEREAS**, no one should be required to risk disease and disability from secondhand smoke to earn a living; and

**WHEREAS**, no one should suffer the risk or discomfort of exposure to secondhand smoke while indoors engaging in business, dining or entertainment; and

**WHEREAS**, everyone, even those made vulnerable because they are young or old or ill should be able to enter a public building without fear of harm from secondhand smoke; and

**WHEREAS**, business owners will benefit from their ability to provide clean indoor air to their employees and customers on a level playing field; and

**WHEREAS**, our children deserve to grow up free of the hazards of secondhand smoke and, as importantly, free of the deception that smoking will make them happier or more grown up; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That Columbus City Codes Chapter 715, entitled Smoking Prohibitions, be and hereby is enacted as follows:

**CHAPTER 715**

**Smoking Prohibitions**

**715.01 Definitions.**

For purposes of this chapter:

(A) "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or any limited liability form of any of the foregoing, or any other entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, financial, counseling, or other professional or consumer services are provided.

(B) "Employee" means a person who is employed by an employer, or who contracts with an employer or who contracts with a third person to perform services for an employer, or who otherwise performs services for an employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services to such employer for no monetary compensation.

(C) "Employer" means an individual person, business, partnership, association, corporation, including a municipal corporation, trust, or any non-profit entity that accepts the provision of services from one or more employees.

(D) "Enclosed Area" means all space closed in by a roof **or other overhead covering of any kind** and walls **or other side coverings of any kind** on at least three sides with appropriate openings for ingress and egress.

(E) "Place of Employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to, private offices, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, employee gymnasiums, auditoriums, libraries, storage rooms, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways, hallways, factories, warehouses, garages, laboratories, taxis, limousines, and company-owned vehicles used for a business purpose. An enclosed area as described herein is a "Place of Employment" without regard to time of day or actual presence of employees. "Place of Employment" only includes private residences, whether single or multifamily, if used as a child care, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that person as an employer with respect to the use of that private residence; provided, however, that private residences are exempt from this chapter to the extent that the person providing the services is providing housecleaning, home maintenance or personal care services in the private residence.

(F) "Proprietor" means the owner, manager, operator, liquor permit holder, or other person in charge or control of a public place or place of employment.

(G) "Public Place" means an enclosed area to which the public is invited or in which the public is permitted and includes service lines. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

(H) "Service Line" means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

(I) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other

~~combustible substance~~ **smoking equipment** in any manner or in any form. **“Smoking” does not include the burning or carrying of incense in a religious ceremony.**

(J) "Smoking materials" means any cigar, cigarette, pipe, weed, plant or other smoking equipment in any form.

(K) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work function.

**(L) “Retail tobacco store” means a retail store used primarily for the sale of smoking materials and smoking accessories and in which the sale of other products is incidental. “Retail tobacco store” does not include a tobacco department of a larger commercial establishment such as a department store, discount store, or bar.**

**(M) “Outdoor patio” means an outdoor area, open to the air at all times, that is either:**

- (1) enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or**
- (2) has no roof or other overhead covering at all regardless of the number of walls or other side coverings.**

**(N) “Private Club” means a club as that term is defined in R.C. 4301.01 (B)(13) and that is organized as not for profit.**

#### **715.02 Prohibitions.**

~~(A) Smoking shall be prohibited in all public places within the City of Columbus, except as provided in Section 715.03~~  
**No proprietor of a public place or place of employment shall permit smoking in said public place or place of employment within the City of Columbus, except as provided in section 715.03 of this Chapter.**

~~(B) Smoking shall be prohibited in all places of employment within the City of Columbus, except as provided in Section 715.03~~  
**All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Columbus, shall be subject to the provisions of this chapter.**

~~(C) All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Columbus, shall be subject to the provisions of this Chapter.~~

~~(D) Smoking is prohibited within a distance of 20 feet outside an enclosed area where smoking is prohibited, unless such distance is unreasonable under the circumstances, so as to ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.~~

**(C) All areas immediately adjacent to the ingress and egress of any enclosed area shall be subject to the provisions of this Chapter so as to ensure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.**

#### **715.03 Areas where smoking is not regulated by this Chapter.**

Notwithstanding any other provision of this Chapter to the contrary, the following areas shall be exempt from the prohibitions in Section 715.02:

(A) Private residences, except if used as a licensed child care, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that private residence as a place of employment; provided, however, that private residences are exempt from this Chapter to the extent that the person providing services is providing housecleaning home maintenance, **cable or telephone repair**, or personal care services in the private residence.

(B) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20% of rooms rented to guests in a hotel or motel may be so designated.

(C) Family-owned and operated businesses ~~with only~~ **in which all employees are related employees to the owner**, and offices of self-employed persons ~~with only~~ **in which all employees are related employees to the self-employed person**, **but only if** ~~when~~ the enclosed areas these ~~places~~ **businesses and offices** occupy are not open to the public, are not in the same building with other enclosed areas subject to this regulation, and smoke from these ~~places~~ **businesses and offices** does not infiltrate into enclosed areas where smoking is prohibited under the provisions of this Chapter.

(D) Any home, as ~~that term~~ is defined in ~~Ohio Revised Code Section 3721.10(A)~~ **Section 3721.10(A) of the Ohio Revised Code**, but only to the extent necessary to comply with ~~Ohio Revised Code Section R.C. 3721.13(A)(18)~~ and rules promulgated according to that section.

**(E) Retail tobacco stores as defined in Section 715.01(L) of this Chapter in operation prior to the effective date of this ordinance. Any new retail tobacco store or any existing retail tobacco store that relocates to another site may only qualify for this exemption if located in a freestanding structure.**

**(F) Outdoor patios as defined in Section 715.01(M) of this Chapter. If the outdoor patio has a structure capable of being enclosed by walls, covers, solid surface fencing, or tents, regardless of the materials or the removable nature of the walls, covers, solid surface fencing, or tents, the space will be considered enclosed, when the walls, covers, fences, or tents are in place. All outdoor patios shall be physically separated from an enclosed area. If sliding or folding windows or doors or other windows or doors forms any part of the border to the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If sliding or folding windows or doors or other windows or doors does not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this Chapter.**

**(G) Private clubs as defined in Section 715.01(N) of this Chapter provided that all of the following apply:**

- (1) That there are no nonmembers present; and**
- (2) That the private club is the holder of a valid D-4 liquor permit pursuant to R.C. 4303.17 if alcoholic beverages are to be served.**

#### **715.04 Construction; other applicable laws.**

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws, and shall be liberally construed so as to further its purposes.

#### **715.05 Declaration of establishment as nonsmoking.**

Notwithstanding any other provision of this Chapter, the owner, manager, operator, liquor permit holder, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 715.06 is posted.

#### **715.06 Posting of signs; prohibition of ashtrays; responsibilities of proprietors.**

**In addition to the prohibitions contained in Section 715.02 of this Chapter**, the proprietor of a public place or place of employment shall comply with the **following** requirements: ~~of this Section.~~

(A) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Chapter. A sign shall be of sufficient size to be clearly legible to one of normal vision throughout the area it is intended to mark. All signs shall contain a telephone number for reporting violations.

(B) Every public place and place of employment where smoking is prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(C) All ashtrays and other receptacles used for disposing of smoking materials shall be removed from any area where smoking is prohibited by this Chapter **unless such ashtrays or receptacles are for ornamental purposes only and are displayed in such a manner so as to preclude their use as receptacles for the disposal of smoking materials.**

(D) By December 31, 2004, every employer subject to the provisions of this Chapter shall adopt, implement, make known, maintain and update to reflect any changes, a written smoking policy, which shall contain at a minimum the following requirements:

(1) The prohibition of smoking except in accordance with the provisions of this chapter, and a description of the smoking restrictions adopted or implemented.

(2) That (i) no person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter; and (ii) the establishment of a procedure to provide for the adequate redress of any such adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this Chapter with respect to the place of employment.

(E) Employers shall prominently post the smoking policy in the workplace, and shall, within three weeks of its adoption and any modification, disseminate the policy to all employees, and to new employees when hired.

(F) Employers shall supply a written copy of the smoking policy upon request to any employee or prospective employee.

(G) A copy of the smoking policy shall be provided to the Columbus Board of Health upon request.

(H) This Section shall not be construed to permit smoking in any area in which smoking is prohibited pursuant to Section 715.02.

#### **715.07 Enforcement.**

~~(A) This Chapter shall be enforced by the Columbus Board of Health, which may allow one or more other City divisions to assist with enforcement under that City division's appropriate jurisdiction.~~

~~(B) The Columbus Board of Health shall establish a telephone number or other means through which all complaints by persons relating to violations of this Chapter may be directed or referred.~~

~~(C) Any person who desires to register a complaint under this Chapter may initiate enforcement with the Columbus Board of Health.~~

~~(D) The Columbus Board of Health or its designees shall, while a public place or place of employment is undergoing otherwise mandated inspections, inspect for compliance with this Chapter.~~

~~(E) A proprietor of a public place or place of employment regulated by this Chapter shall inform persons violating this Chapter of the appropriate provisions thereof.~~

~~(F) Notwithstanding any other provision of this chapter, an employee or other person may bring legal action to enforce this Chapter.~~

~~(G) In addition to the remedies provided by the provisions of this chapter, the Columbus Board of Health, or any person aggrieved by the failure of the proprietor of a public place or a place of employment to comply with the provisions of this chapter, may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.~~

**This chapter shall be enforced by the Columbus Board of Health and its designee(s). The Health Commissioner and his or her designee(s), the Director of Development and his or her designee(s), and the Director of Public Safety and his or her designee(s) shall have concurrent jurisdiction to enforce all provisions of this Chapter.**

#### **715.08 Severability.**

If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

**715.99 Violations and Penalties.**

~~(A) A proprietor of a public place or place of employment who fails to comply with the provisions of this Chapter shall be guilty of a minor misdemeanor, punishable by a fine not exceeding one hundred fifty (\$150.00) dollars.~~

~~(B) In addition to the fine as set in division (A) of this Section, the following additional penalty applies:~~

~~(1) For a second offense, the additional penalty is a mandatory fine of four hundred dollars (\$400.00).~~

~~(2) For a third and all subsequent offenses, the additional penalty is a mandatory fine of six hundred dollars (\$600.00).~~

~~(C) All fines and additional penalties set forth in this Section which are collected as a result of enforcement of the provisions of this Chapter shall be paid directly to the Columbus Board of Health for purposes of enforcement of the provisions of this Chapter.~~

~~(D) Each day on which a violation of this Chapter occurs shall be considered a separate and distinct violation.~~

**(A) Upon the receipt of a first report that a proprietor of a public place or place of employment has violated any provision of this Chapter, the Columbus Board of Health shall issue a warning letter to that proprietor. Thereafter, the penalties contained in division (B) of this Section shall apply.**

**(B) Whoever violates any provision of this Chapter is guilty of the offense of permitting smoking in public places or places of employment. Such offense is a minor misdemeanor, punishable by a maximum fine of \$150.**

**(C) Strict liability is intended for a violation of this Chapter.**

**(D) All fines and costs collected as a result of enforcement of the provisions of this Chapter shall be paid directly to the Columbus Board of Health to fund future enforcement and education.**

**SECTION 2. Public education.**

The Columbus Board of Health shall engage in a continuing program to explain and clarify the purposes and requirements of this Chapter to persons affected by it, and to guide proprietors in their compliance with it. The program may include publication of a brochure for affected businesses and persons explaining the provisions of this ordinance.

**SECTION 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law. That in the event that the federal government establishes quality indoor air standards that are acceptable to the Center for disease Control for elimination of all known carcinogens and technology has been tested and shown to ensure compliance with such standards, this Council will consider adopting additional exemptions or variances to these prohibitions.**

**SECTION 4. That this ordinance shall take effect at the earliest possible date allowed by law but its provisions shall not be enforced until ninety days from final passage.**

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**Legislation Number:** 1102-2004

**Drafting Date:** 06/10/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance



**Background:**

This ordinance will authorize the Director of Recreation and Parks to transfer 3.921 acres of City owned parkland along Alkire Road to Rockford Homes in exchange for 4.433 acres of proposed parkland from Rockford Homes.

The City of Columbus, Recreation and Parks Department, has acquired in excess of 15 acres of parkland and the cash to develop a proposed park along Alkire Road as a result of various rezoning cases.

Recently the Recreation and Parks Department received a proposal from Rockford Homes, 999 Polaris Parkway, Columbus, Ohio 43240, suggesting an exchange 3.921 acres of existing City parkland along Alkire Road for 4.433 acres of new parkland at an adjacent site. This proposed exchange will result in an increase in the net park acreage at the Alkire Road site.

The proposed park to be developed at this location will serve approximately 600 homes slated for construction in 5 new subdivisions surrounding the site and will help to create a traditional style neighborhood. The Land Review Commission has voted to recommend that the City proceed with the proposed exchange.

It has been determined that it is in the best interest of the City to waive the provisions of the competitive bidding process.

Emergency action is requested as contracts are prepared and closing dates are being established based on this legislation.

**Fiscal Impact:**

N/A

**Title**To authorize the Director of the Recreation and Parks Department to execute those documents required to transfer 3.921 acres of City owned parkland along Alkire Road to Rockford Homes in exchange for 4.433 acres of proposed parkland to be deeded from Rockford Homes to the City, to waive the competitive bidding provisions of Columbus City Codes, and to declare an emergency.

**Body** **WHEREAS**, the City of Columbus, Recreation and Parks Department, has acquired in excess of 15 acres of parkland and the cash needed to develop a proposed park along Alkire Road as a result of various zoning cases; and

**WHEREAS**, the Recreation and Parks Department recently received a proposal from Rockford Homes suggesting an exchange of 3.921 acres of existing City owned parkland along Alkire Road for 4.433 acres of property to be used as new parkland at an adjacent site; and

**WHEREAS**, this exchange will result in an increase in the net park acreage at the Alkire Road site; and

**WHEREAS**, the proposed park to be developed at this location will serve approximately 600 homes slated for construction in 5 new subdivisions surrounding the site and will help to create a traditional style neighborhood; and

**WHEREAS**, the Land Review Commission voted to recommend that that the City proceed with the proposed exchange;and

**WHEREAS**, an emergency exists in the usual daily operation of the Recreation and Parks Department in that it is immediately necessary to to authorize this proposal as contracts are prepared and closing dates are being established based on this legislation; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Director of the Recreation and Parks Department be and is hereby authorized to execute quit claim deeds and other incidental instruments prepared by the Department of Law, Real Estate Division, necessary to transfer the following described **3.921** acres to **Rockford Homes**; to-wit:

Situated in the State of Ohio, County of Franklin, City of Columbus V.M.S. 1389, and being part of a 10.193 acre tract conveyed to the City of Columbus, Instrument Number 200303130074729,

Franklin County Recorder's Records:

Beginning for reference at a found iron pin at the southwest corner of Alkire Lakes Section 2, Part 1, P. B. 95, Pg 83, and the northwest corner of Alkire Lakes Section 4, Part 2, P.B. 99, Pg 03;

Thence N 01°04'34" E, following the westerly line of Alkire Lakes Section 2, Part 1, P.B. 95, Pg 83, a distance of 240.15 feet to a found iron pin, said iron pin being the True Point of beginning;

Thence S 01°04'34" W following the westerly line of Alkire Lakes Section 2, Part 1, P.B. 95, Pg 83, and Alkire Lakes Section 4, Part 2, P.B. 99, Pg 03, a distance of 868.87 feet to a set iron pin;

Thence with the following nine (9) courses crossing the original 10.193 acres conveyed to the City of Columbus, I.N. 200303130074729;

1. N 88°47'58" W. a distance of 290.00 feet to a set iron pin
2. N 01°04'34" E a distance of 195.01 feet to a set iron pin;
3. N 20°18'41" E a distance of 59.77 feet to a set iron pin;
4. N 83°32'08" E a distance of 101.19 feet to a set iron pin;
5. N 01°04'34" E a distance of 322.52 feet to a set iron pin;
6. With a curve to the right having a radius of 325.00 feet, a delta of 14°06'05", an arc of 79.99 feet, and a chord bearing of N 08°07'36" E for a chord distance of 79.79 feet to a set iron pin;
7. N 15°10'39" E a distance of 89.30 feet to a set iron pin;
8. With a curve to the left having a radius of 125.00 feet, a delta of 25°54'08", an arc of 56.51 feet, and a chord bearing of N 02°13'35" E for a chord distance of 56.03 feet to a set iron pin;
9. With a curve to the left having a radius of 25.00 feet, a delta of 95°57'21", an arc of 41.87 feet, and a chord bearing of No 58°42'09" E for a chord distance of 37.14 feet to a set iron pin;

Thence with the following two (2) courses along the southerly line of Alkire Run, Section 1, P.B. 104, Pg 03;

1. N 73°19'10" E a distance of 89.84 feet to a set iron pin;
2. With a curve to the left having a radius of 275.00 feet, a delta of 17°45'20", an arc of 85.22 feet, and a chord bearing of N 82°11'51" E for a chord distance of 84.88 feet to the point of beginning,

Containing 3.921 acres, more or less.

This description was based on an actual field survey by the Jerry A. Malott Surveying Company in December 2003.

Bearings were based on the westerly line of Alkire Lakes Section 4, Part 2, as being S 01°04'34" W, as shown in P.B. 99, Pg. 03.

All set iron pins are ¾" in diameter and 30" in length with plastic I.D. caps.

Jerry A. Malott, Registered Surveyor No 5963

**Section 2.** That this Council has determined it is in the best interest of the City of Columbus to allow the above referenced transfer of City parkland to proceed without requiring competitive bidding and hereby waives the competitive bidding provision of Columbus City Codes (1959) Revised, Section 329.25 with regards to the transfer of this parkland.

**Section 3.** That in exchange for the above described parkland the City of Columbus, Recreation and Parks Department will receive the following described **4.433 acres**, to be used as parkland, from **Rockford Homes**; to-wit:

Situated in the State of Ohio, County of Franklin, City of Columbus V.M.S. 1389, and being part of a 27.793 acre tract conveyed to William D. and Marvin Allmon, Official Record 20740, Pg. D18, Franklin County Recorder's Records:

Beginning for reference at the southeast corner of Alkire Place Section 3, P.B. 102, Pg. 05;

Thence N 01°19'38" E following the easterly line of Alkire Place Section 3, P.B. 102, Pg. 05, and Alkire Place Section 2, P.B. 100, Pg. 22, a distance of 752.24 feet to a point, said point being referenced by a found iron pin being S 88°47'58" E for a distance of 0.59 feet;

Thence S 88°47'58" E following the southerly line of a residual 9.176 acres of an original 10.476 acre tract conveyed to Alice M. Egelhoff, D.B. 2867, Pg. 217, and a 7.950 acre tract conveyed to

Thomas A. and Kathy A. Box, O.R. 11827, Pg. F17, a distance of 216.70 feet to a set iron pin, said iron pin being the True Point of Beginning;

Thence S 88°47'58" E, following the southerly lines of a 7.950 acre tract conveyed to Thomas A. and Kathy A. Box, O.R. 11827, Pg. F17, a residual 4.942 acres of an original 15.495 acre tract conveyed to the City of Columbus, I.N. 200108020176659, and the original North line of the 27.793 acre tract, O.R. 20740, Pg. D18, a distance of 821.89 feet to a set iron pin, (passing a found iron pin at a distance of 567.18 feet);

Thence with the following Ten (10) courses across the original 27.793 acre tract, O.R. 20740, Pg. D18;

1. S 01°04'34" W a distance of 334.66 feet to a set iron pin;
2. N 75°47'52" W a distance of 719.51 feet to a set iron pin;
3. S 13°44'54" W a distance of 120.00 feet to a set iron pin;
4. With a curve to the left having a radius of 125.00 feet, a delta of 8°16'16", an arc of 18.04 feet, and a chord bearing of N 79°56'00" W for a chord distance of 18.03 feet to a set iron pin;
5. N 01°19'38" E a distance of 115.55 feet to a set iron pin;
6. N 23°13'26" W, a distance of 24.49 feet to a set iron pin;
7. N 56°44'39" E a distance of 120.45 feet to a set iron pin;
8. N 23°13'26" W a distance of 20.13 feet to a set iron pin;
9. S 56°44'39" W a distance of 120.45 feet to a set iron pin;
10. N 23°13'26" W a distance of 143.67 feet to the point of beginning;

Containing 4.433 acres, more or less.

This description was based on an actual field survey by the Jerry A. Malott Surveying Company in December 2003.

Bearings were based on the westerly line of Alkire Lakes Section 4, Part 2, as being S 01°04'34" W as shown in P.B. 99, Pg. 03.

All set iron pins are  $\frac{3}{4}$ " in diameter and 30" in length with plastic I.D. caps.

Jerry A. Malott, Registered Surveyor No 5963

**Section 4.** That the City of Columbus, Recreation and Parks Department, hereby accepts the above described property for park purposes.

**Section 5.** That for the reasons stated in the preamble thereto, which is hereby made a part hereof, this ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1110-2004

**Drafting Date:** 06/11/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

**BACKGROUND:** The need exists to enter into an Enterprise Zone Agreement with EMH&T and/or its affiliate. The Ohio Enterprise Zone Law O.R.C. Section 5709.631 requires the City to enter into a Council-approved agreement between the City and participating companies.

EMH&T will relocate/retain 329 existing jobs from Gahanna to Columbus and will create 85 (eighty-five) new jobs at the

project site. The City of Gahanna has been notified of the proposed relocation. The Ohio Department of Development, pursuant to ORC Section 5709.633 (B), has waived the relocation restrictions.

The Columbus School District has been advised of this project.

**FISCAL IMPACT:** No funding is required for this legislation.

**Title**

To authorize the Director of Development to enter into an agreement with EMH&T and/or its affiliate for a tax abatement of seventy-five percent (75%) on real property improvements, machinery & equipment, and furniture & fixtures for a period of ten (10) years in consideration of a proposed \$13.5 million investment in real property improvements and new personal property, the creation of 85 (eighty-five) new full-time jobs and the relocation/retention of 329 full-time positions new to Columbus; and to declare an emergency.

**Body**

**WHEREAS,** the Columbus City Council authorized the designation of the North Enterprise Zone by legislation, Ordinance Number 427-03, dated March 31, 2003; and

**WHEREAS,**the Ohio Development Department approved this designation under State of Ohio Enterprise Law, by letter dated January 8, 2004; and

**WHEREAS,**EHM&T and/or its affiliate plans to invest \$13.5 million in real property improvements, machinery & equipment, and furniture & fixtures to accommodate consolidation; and

**WHEREAS,** the consolidation will add approximately \$13.5 million in investment within the City; and

**WHEREAS,**the consolidation and expansion will create 85 (eighty-five) new full time jobs and retain 329 full time positions; and

**WHEREAS,** the 329 relocated/retained jobs from Gahanna are new jobs to the City of Columbus; and

**WHEREAS,** pursuant to ORC Section 5709.633(B), the Ohio Department of Development waived the relocation restriction of ORC Section 5709.633 (A), effective May 6, 2004; and

**WHEREAS,**emergency action is required in order to accommodate the project's contractual timeframe; and

**WHEREAS,**an emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary to enter an Enterprise Zone Agreement with EMH&T and/or its affiliate in order to preserve the public health, peace, property, safety and welfare; **NOW, THEREFORE,**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Director of Development is hereby authorized to enter into an Enterprise Zone Agreement with EMH&T and/or its affiliate to provide therewith an exemption of seventy-five percent (75%) on real property improvements, new machinery & equipment and furniture & fixtures for a term of ten (10) taxable years in association with the project's proposed \$13.5 million investment.

**Section 2.** That for reasons stated in the preamble hereto, which is hereby made a part hereof the ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and

approval by the Mayor or ten days after the passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1115-2004

**Drafting Date:** 06/11/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

**BACKGROUND:** The City is a participating jurisdiction receiving federal funds under the HOME Investment Partnerships Program (HOME) of the U. S. Department of Housing and Urban Development (HUD). The regulations of the program provide that up to five percent of the annual allocation may be granted to Community Housing Development Organizations (CHDO's) to pay their administrative costs. CHDO's work in their neighborhoods to develop affordable housing through rehabilitation of existing housing stock or new, in-fill construction.

This legislation authorizes the expenditure of \$273,107.65 of HOME Funds. The legislation also authorizes the Director of Development to enter into a contract with the Community Development Collaborative of Greater Columbus (Collaborative) to serve in the role as a funding intermediary, facilitator of training, and builder of organizational capacity. These funds leverage additional public and private funds for operating support. The City and the Collaborative have collectively developed a process for competitive distribution of the funds.

The Collaborative will administer contracts for the following CHDO's:

Franklinton Development Association	\$45,517.95
Homes On The Hill, CDC	\$45,517.94
Neighborhood House CHDO	\$45,517.94
Northside CDC	\$45,517.94
MiraCit Development Corporation	\$45,517.94
Youthbuild Columbus	<u>\$45,517.94</u>
<b>Total</b>	<b>\$273,107.65</b>

Contract figures represent only the HOME funded portion of the CHDO's total contract.

Emergency action is requested to allow the Collaborative to enter into contracts with the CHDOs for FY2004.

**FISCAL IMPACT:** The 2004 HOME Program budget allocated a total of \$273,107.65 for CHDO operating support.

### **Title**

To authorize the Director of the Department of Development to enter into a contract with the Community Development Collaborative of Greater Columbus; to authorize the expenditure of \$273,107.65 from the HOME Fund; and to declare an emergency. (\$273,107.65)

### **Body**

**WHEREAS**, the City of Columbus is the recipient of HOME Investment Partnership funds from the U.S. Department of Housing and Urban Development; and

**WHEREAS**, the City desires to make a portion of the HOME funds available to Community Housing Development Organizations (CHDO's) to pay a portion of their operating costs to stimulate the development of affordable housing for low income households in their neighborhoods; and

**WHEREAS**, support for CHDO's can foster the revitalization of central city neighborhoods; and

**WHEREAS**, the City desires to enter into a contract with the Community Development Collaborative of Greater Columbus in order to administer the CHDO's contracts; and

**WHEREAS**, emergency action is required to allow the Collaborative to initiate the FY2004 CHDO contracts immediately; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Development, Housing Division, in that it is immediately necessary to enter into contract with the Community Development Collaborative of Greater Columbus and to expend said funds thereby preserving the public health, peace, property, safety, and welfare; and **NOW THEREFORE**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

- Section 1.** That the Director of the Department of Development be and is hereby authorized to enter into a contract with the Community Development Collaborative of Greater Columbus for a contract period of January 1, 2004 through March 31, 2005.
- Section 2.** That for the purpose as stated in Section 1 the expenditure of \$273,107.65 or so much thereof as may be necessary, be and is hereby authorized to be expended from the Department of Development, Department No. 44-10, Fund 201, Grant No. 458001, Object Level One 03, Object Level Three 3337, OCA Code 444132.
- Section 3.** That this contract is awarded pursuant to Section 329.15 of the Columbus City Codes, 1959 as amended.
- Section 4.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1170-2004

**Drafting Date:** 06/17/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of unlimited tax bonds in the amount of \$46,320,000 for the Division of Transportation. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

## Title

Authorizing the issuance of unlimited tax bonds in the amount of \$46,320,000 for the Division of Transportation (\$46,320,000)

Section 55(B) of the City Charter.

## Body

WHEREAS, at the election held on November 2, 1999 on the proposition of issuing bonds for the purpose hereinafter stated in the sum of Two Hundred Three Million Seven Hundred Twenty Thousand Dollars (\$203,720,000) and levying taxes outside the ten mill limitation to pay the principal and interest on such bonds, the majority of those voting on the proposition voted in favor thereof; and

WHEREAS, it is now deemed necessary to issue and sell \$46,320,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of widening, opening, extending, constructing, paving, repaving, improving and changing the line of expressways, freeways, roads, highways, bikeways, streets, alleys, bridges, viaducts, overpasses, underpasses, grade crossing eliminations, and service and access roads, including development of offstreet parking facilities, the acquisition and installation of parking meters, traffic control systems, equipment and signs, the acquisition of real estate and interests in real estate and related equipment, and landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is seventeen (17) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Forty-Six Million Three Hundred Twenty Thousand Dollars (\$46,320,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with six other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds,

Series 2004-1".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.



Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$46,320,000) shall be deposited in the City Treasury and allocated to the following funds

and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
704	530282	\$ 15,525,654	Resurfacing
704	530034	7,000,000	Spring/Sandusky
704	590401	8,759,000	Lane Avenue Widening
704	540007	1,356,324	Traffic Signal Installation
704	540008	755,082	Sign Upgrading/Street Name Signs
704	530790	241,000	Sidewalk Program
704	530801	1,490,758	Downtown Streetscape
704	530051	90,354	OSU Community Improvements
704	590105	3,282,772	Pedestrian Safety Improvements
704	440005	6,259,056	Urban Infrastructure Improvements
704	590110	500,000	McKinley Avenue (Misc Develop)
704	590415	<u>1,060,000</u>	Economic & Community Development
	<b>Total</b>	<b><u>\$46,320,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

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Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the

status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or an other officer, including the City Clerk, on behalf of the Municipality; (b) to take ay and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1171-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of unlimited tax bonds in the amount of \$33,245,000 for the Division of Sewerage and Drainage - Sanitary. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of unlimited tax bonds in the amount of \$33,245,000 for the Division of Sewerage and Drainage - Sanitary (\$33,245,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, at the election held on May 7, 1991 on the proposition of issuing bonds for the purpose hereinafter stated in the sum of Three Hundred Twenty Five Million Dollars (\$325,000,000) and levying taxes outside the ten mill limitation to pay the principal and interest on such bonds, the majority of those voting on the proposition voted in favor thereof; and

WHEREAS, it is now deemed necessary to issue and sell \$33,245,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, constructing and improving facilities for the Division of Sewerage and Drainage, which includes acquiring real estate and interest in real estate, expanding and improving existing waste water treatment facilities, constructing new waste water treatment facilities, acquiring and improving instrumentation and control systems, sewer lines, pumping stations, lagoons and levies, constructing storm and sanitary sewer separations and acquiring related machinery, equipment and appurtenances; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Thirty-Three Million Two Hundred Forty-Five Thousand Dollars (\$33,245,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with six other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds, Series 2004-1".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest

Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the



same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due

execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$33,245,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
664	650360	\$7,050,000	Wastewater Treatment Facilities Upgrade - General Program
664	650370	1,300,000	Maintenance Management Program Upgrade
664	650178	2,069,278	Big Walnut Parsons Avenue Subtrunk, Part 2
664	650404	1,821,051	Sanitary System Rehabilitation
664	650489	3,712,343	Big Run Subtrunk, Big Run South Road
664	650497	2,050,000	Upper Scioto West Subtrunk, Hayden Run Area
664	650690	6,500,000	Sanitary System Overflow Elimination
664	650620	498,443	Lockbourne Road Area Sanitary Sewer Assessment
664	650255	39,332	JPWWTP, Skimmings Concentrator System Improvements
664	650346	120,280	SWWTP, Electrical System Upgrade
664	650430	740,000	Big Walnut Outfall Sewer System Cap. Augmentation, Part 1
664	650491	520,000	Big Walnut Augmentation/Rickenbacker San. Interceptor, Pt 1
664	650691	229,650	OSIS-Downtown Odor Control Facilities
664	650892	6,228,536	Scioto River West Floodwall
664	650467	366,087	Hiawatha Park/Azelda Relief
	<b>Total</b>	<b><u>\$33,245,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

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Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1172-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of unlimited tax bonds in the amount of \$32,240,000 for the Division of Water. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of unlimited tax bonds in the amount of \$32,240,000 for the Division of Water (\$32,240,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, at the election held on November 2, 1999 on the proposition of issuing bonds for the purpose hereinafter stated in the sum of Two Hundred Million Dollars (\$200,000,000) and levying taxes outside the ten mill limitation to pay the principal and interest on such bonds, the majority of those voting on the proposition voted in favor thereof; and

WHEREAS, it is now deemed necessary to issue and sell \$32,240,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring real estate and interest in real estate, improving existing water plants and acquiring and improving instrumentation and control systems, hydroelectric facilities, raw water conduits, transmission and distribution lines, booster stations, tanks, lagoons and levees;

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is fifteen (15) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Thirty Two Million Two Hundred Forty Thousand Dollars (\$32,240,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in

preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with six other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds, Series 2004-1".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance:

(i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined



Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his

official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$32,240,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
606	690026	\$ 700,000	Miscellaneous Facilities
606	690236	7,277,500	Water Main Rehabilitation
606	690251	110,000	O'Shaughnessy Dam Hydroelectric
606	690263	500,000	Doherty Road Water Line
606	690278	2,450,000	DRWP Improvement Facilities
606	690286	650,000	HCWP Improvement Facilities
606	690290	50,000	Distribution Improvements
606	690292	200,000	Utility Complex Garage
606	690331	3,460,784	HCWP Lagoons #1 & #3 Sludge Removal
606	690332	600,000	HCWP Sludge Pump Station
606	690359	1,422,592	South Wellfield-South Expansion
606	690375	600,000	Livingston Avenue Booster Station
606	690383	1,250,000	SR 317 London-Groveport Water Line
606	690395	1,000,000	Valve Renewal Program
606	690403	175,000	Champion Avenue 20" Water Main
606	690404	175,000	Livingston Avenue 24" Water Main
606	690405	450,000	Refugee Road 16" Water Main
606	690411	240,000	Water Shed Mgt. Misc Improvement Facilities
606	690416	250,000	Griggs Dam Tender's House
606	690418	287,014	DRWP Filter Gallery Piping Coating
606	690420	380,000	HCWP High & Low Service Piping
606	690426	150,000	Taylor Road Storage Tank
606	690431	1,250,000	Morse Road 36" Water Main Part 2
606	690436	2,250,000	Fisher Booster Station Discharge Line
606	690444	300,000	O'Shaughnessy Hydro Electric Improvements
606	690446	300,000	General Engineering Services-Supply Group
606	690450	600,000	Griggs Booster Station
606	690452	1,100,000	Scioto-Darby Creek Road 24" Water Main
606	690455	360,000	Joyce Avenue 16" Water Main
606	690468	2,050,000	Sunbury 12" Water Main
606	690471	300,000	PAWP Electrical Service Upgrade
606	690472	750,000	O'Shaughnessy Dam Outlet
606	690474	175,000	Morse Road 36" Water Main
606	690479	302,110	Security Enhancements
606	690480	<u>125,000</u>	Morse/Hamilton Booster Station
	<b>Total</b>	<b><u>\$32,240,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

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To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited to, the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at

maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1173-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of unlimited tax bonds in the amount of \$26,730,000 for recreation and parks. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of unlimited tax bonds in the amount of \$26,730,000 for recreation and parks (\$26,730,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, at the election held on November 2, 1999 on the proposition of issuing bonds for the purpose herein stated in the sum of Fifty Nine Million Three Hundred Seventy Five Thousand Dollars (\$59,375,000) and levying taxes outside the ten mill limitation to pay the principal and interest on such bonds, the majority of those voting on the proposition voted in favor thereof; and

WHEREAS, it is now deemed necessary to issue and sell \$26,730,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, renovating and improving municipal parks, playgrounds and recreation facilities including the acquisition of real estate and interest in real estate, the construction, reconstruction, relocation, remodeling, enlargement and improvement of buildings and other structures, the acquisition of furnishings, apparatus, communications equipment and other equipment, landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is seventeen (17) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Twenty-Six Million Seven Hundred Thirty Thousand Dollars (\$26,730,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with six other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds, Series 2004-1".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7

hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum



(5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$26,730,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
702	510035	\$ 3,583,003	Facility Renovation
702	510509	1,592,291	Dodge Recreation Center
702	510017	5,828,129	Park & Playground Development
702	510112	2,754,686	Parkland Acquisition
702	510011	137,087	Swimming Facilities
702	440006	672,590	Urban Infrastructure
702	510226	6,067,291	North Recreation Center
702	510316	1,845,423	Greenways Projects
702	510429	784,500	Golf Course Improvements
702	510500	<u>3,465,000</u>	COAAA
	<b>Total</b>	<b><u>\$26,730,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt

Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

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#### **Break1**

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1174-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of unlimited tax bonds in the amount of \$15,420,000 for the Division of Electricity. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of unlimited tax bonds in the amount of \$15,420,000 for the Division of Electricity (\$15,420,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, at the election held on November 2, 1999 on the proposition of issuing bonds for the purpose hereinafter stated in the sum of Twenty Eight Million Three Hundred Thirty Thousand Dollars (\$28,330,000) and levying taxes outside the ten mill limitation to pay the principal and interest on such bonds, the majority of those voting on the proposition voted in favor thereof; and

WHEREAS, it is now deemed necessary to issue and sell \$15,420,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, constructing and improving facilities for the Division of Electricity, including the expansion and improvement of the municipal street lighting system, the construction and improvement of electrical distribution facilities, power lines, underground tunnels for power lines and other structures, the making of substation improvements and acquisition of real estate and interest in real estate and related equipment, landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is ten (10) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Fifteen Million Four Hundred Twenty Thousand Dollars (\$15,420,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with six other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds, Series 2004-1".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be

executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$15,420,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
553	670003	\$ 807,516	Street Lighting
553	670626	142,262	Wilson Road Street Lighting County
553	670627	235,036	Morse Road Street Lighting County
553	670607	8,901,910	Italian Village Substation
553	670619	1,350,512	Federal Mandated Prevention
553	670608	929,050	Distribution Improvements
553	440007	1,005,000	Urban Infrastructure Recovery
553	670610	266,565	Glenbrook Substation
553	670977	170,000	Facilities Renovation
553	670103	519,131	138KV Line
553	670623	110,000	Refugee Road Street Lighting
553	670630	85,800	Alum Creek Street Lighting
553	670618	110,000	Berwyn East Street Lighting
553	670177	140,000	Capacitor Program
553	670061	15,000	69KV Line
553	670620	378,668	Street Light Inspection/Betterments
553	670628	193,050	Thurber Village Street Lighting
553	670615	<u>60,500</u>	Gould Park Street Lighting
	<b>Total</b>	<b><u>\$15,420,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as



determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

**Break1**

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax law, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1175-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

#### **Explanation**

To authorize the issuance of unlimited tax bonds in an amount not to exceed \$4,100,000 for the purpose of providing funds to currently refund certain outstanding general obligation bonds of the City. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

#### **Title**

Authorizing the issuance of unlimited tax bonds in an amount not to exceed \$4,100,000 for the purpose of providing funds to currently refund certain outstanding general obligation bonds of the City. (\$4,100,000)

Section 55(B) of the City Charter.

#### **Body**

WHEREAS, pursuant to Ordinance No. 0817-2004 passed on May 3, 2004 by the City Council (the "Council") of the City of Columbus, Ohio (the "Municipality"), unlimited tax general obligation bonds of the Municipality, designated "City of Columbus, Ohio Unlimited Tax General Obligation Refunding Bonds, Series 2004-B" in the aggregate principal amount of \$6,650,000 (the "Outstanding Bonds") were issued and sold by the Municipality for the purpose of currently refunding bonds previously issued by the Municipality; and

WHEREAS, the Municipality can achieve a reduction in the debt service associated with the Outstanding Bonds by providing for the current refunding of the Outstanding Bonds stated to mature after May 1, 2007 (the "Refunded Bonds"); and

WHEREAS, this Council believes that it is in the best interests of the Municipality to currently refund the Outstanding Bonds using proceeds of the Bonds (as hereinafter defined), authorized pursuant to Section 133.34(A)(1),

Ohio Revised Code, together with other moneys available for that purpose, if any;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1 . Bonds of the Municipality shall be issued in the principal sum not to exceed Four Million One Hundred Thousand Dollars (\$4,100,000) (the "Bonds") for the purpose of providing a portion of the funds necessary to currently refund the Refunded Bonds, and paying other costs incidental thereto.

Section 2 . There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3 . The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4 . It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with five other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds, Series 2004-1".

Section 5 . The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning on January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in the Certificate of Award.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6 . The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance and shall be executed by the Mayor and the City Auditor of the Municipality, in their

official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7 . The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer,

the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8 . The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9 . The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds, are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award, provided that no such date shall be later than the last maturity of the Refunded Bonds.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than 97% of the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Combined Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award, provided no such date shall be later than the last maturity of the Refunded Bonds.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited to, the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

The proceeds of sale of the Combined Bonds shall be allocated and deposited as follows:

- (a) to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law (and said proceeds are hereby appropriated for such purpose), any accrued interest paid by the Original Purchaser;
- (b) to the proper Bond Retirement Fund and applied to redeem the Refunded Bonds on or before September 15, 2003 (and said proceeds are hereby appropriated for such purpose), the remainder of the proceeds of sale of the Combined Bonds.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10 . The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor, and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

**Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates, and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11 . The Director of Finance and the City Auditor and each of them, acting alone, are hereby authorized and directed, for and in the name of the Municipality and on its behalf, to give such notices as may be required in order to effect the redemption of the Refunded Bonds on the date of issuance of the Combined Bonds or as soon thereafter as is reasonably practicable.

Section 12 . It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 13 . It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 14 . The City Clerk is hereby directed to forward certified copies of this Ordinance to the County



Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 15 . In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1176-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of unlimited tax bonds in the amount of \$2,380,000 for refuse collection. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of unlimited tax bonds in the amount of \$2,380,000 for refuse collection (\$2,380,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, at the election held on November 2, 1999 on the proposition of issuing bonds for the purpose hereinafter stated in the sum of Ten Million Six Hundred Seventy Five Thousand Dollars (\$10,675,000) and levying taxes outside the ten mill limitation to pay the principal and interest on such bonds, the majority of those voting on the proposition voted in favor thereof; and

WHEREAS, it is now deemed necessary to issue and sell \$2,380,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, constructing and improving facilities for the Division of Refuse Collection, including but not limited to sanitation trucks, containers and related equipment; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds equals five (5) years and the maximum maturity of said bonds is five (5) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Two Million Three Hundred Eighty Thousand Dollars (\$2,380,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and outside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with six other unlimited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Unlimited Tax Bonds, Series 2004-1".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest

Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the

same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Unlimited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due

execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$2,380,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
703	520001	<u>\$2,380,000</u>	Mechanized Collection
	<b>Total</b>	<b><u>\$2,380,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

**Break1**

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of

penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1177-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$45,835,000 for transportation. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of limited tax bonds in the amount of \$45,835,000 for transportation (\$45,835,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, it is now deemed necessary to issue and sell \$45,835,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of widening, opening, extending, constructing, paving, repaving, improving and changing the line of expressways, freeways, roads, highways, bikeways, sidewalks, streets, alleys, bridges, viaducts, overpasses, underpasses, grade crossing eliminations, and service and access roads, including development of offstreet parking facilities, the acquisition and installation of parking meters, traffic control systems, equipment and signs, the acquisition of real estate and interests in real estate and related equipment, and landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is seventeen (17) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Forty-Five Million Eight Hundred Thirty-Five Thousand Dollars (\$45,835,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January



1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent,

bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions

which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each

Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$45,835,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
704	530103	\$3,021,500	Arterial Street Rehabilitation
704	530011	340,226	Sancus Blvd.
704	530104	250,000	Alley Rehabilitation
704	530105	150,000	Brick Rehabilitation
704	530086	550,000	Intersection Improvements
704	530210	450,000	Curb Reconstruction
704	530208	6,498,900	Federal/State Match
704	530161	2,138,000	Roadway Improvements
704	540013	1,000,000	Permanent Pavement Markings
704	540011	250,000	Raised Pavement Markings
704	590125	65,000	HazMat Signage
704	540001	200,000	Parking Meters
704	540003	250,000	Computerized Signals
704	590126	512,772	Utility Relocation
704	590127	500,000	Spring/Sandusky Interchange OTMP
704	590128	202,000	Cassady Avenue Reimbursement
704	590129	150,000	Downtown Circulation Changes
704	590130	2,952,500	Facilities
704	530020	3,165,000	Street Equipment
704	590109	70,000	Mound/Souder
704	530301	981,000	City Bridge Rehabilitation
704	530050	3,500,000	Matching Funds Clintonville
704	530053	53,500	Short North SID
704	530010	3,340,414	Krumm Park
704	530051	24,646	OSU Community Improvements
704	530052	7,310,000	Morse Rd. Area
704	530058	3,210,000	NCR
704	530303	1,699,542	Housing Initiatives- Roadway Imp
704	530302	400,000	Affordable Housing
704	590131	<u>2,600,000</u>	Miscellaneous Development
	<b>Total</b>	<b><u>\$45,835,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is

hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu

thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1178-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of limited tax bonds in the amount of \$33,515,000 for Division of Sewerage and Drainage - storm sewers. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of limited tax bonds in the amount of \$33,515,000 for Division of Sewerage and Drainage - storm sewers (\$33,515,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, it is now deemed necessary to issue and sell \$33,515,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of enlarging, extending, renovating and improving the municipal storm sewerage system for the collection, retention, control and disposal of storm sewerage and surface waters and prevention and control of soil erosion and flooding, acquisition of real estate and interests in real estate, landscaping and site improvements thereon, construction and installation of storm sewers, floodwalls, dams and levies, renovation and improvement of manholes and storm sewerage ditches, acquisition and installation of facilities, and appurtenances necessary therefor; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Thirty-Three Million Five Hundred Fifteen Thousand Dollars (\$33,515,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.



The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the

extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond

Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in

accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

**Break1**

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$33,515,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
685	610037	\$ 1,517,000	East Central Relief Storm Sewer
685	610542	939,236	6th, 7th Rarig Avenue UIRF
685	610703	535,549	Foster Street Storm System Improvements
685	610706	30,000	Marsdale Avenue Storm System
685	610712	37,500	ST 24 Refugee Road Pump Station Replacement
685	610714	25,000	Mock Road Storm System Improvements
685	610715	250,000	Shady Lane Stormwater System
685	610734	20,000	Midland/Eakin Stormwater System Improvements
685	610737	250,000	Noe Bixby Road Stormwater System

685	610738	100,000	Olentangy Blvd/Amazon Place Stormwater
685	610742	89,377	Charleston Avenue Stormwater System
685	610743	288,000	Springmont Avenue Stormwater Replacement
685	610744	48,964	Parkside Road Stormwater System Improvements
685	610745	122,328	Eaton/Wharton Avenue Area Stormwater System Improvements
685	610746	31,154	Southard/Fornoff Area SSI
685	610747	60,501	Southgate/Landers Area SSI
685	610748	85,000	Oakland Park Avenue SSI
685	610749	75,000	Canyon Drive/Glenmont Avenue Area SSI
685	610750	80,000	Clintonville Area Miscellaneous SSI
685	610751	50,494	Olentangy River Road Culvert Replacement
685	610753	732,000	Pilot Wetlands Mitigation
685	610754	125,000	Southeast Industrial Park Stormwater System Improvements
685	610755	80,000	Neighborhood Stormwater Projects Phase 9
685	610762	300,000	General Engineering Services
685	610824	3,612,730	Dry Run Flood Routing at Valleyview
685	610833	940,000	Willow Springs Subdivision
685	610846	20,000	West Fifth Avenue Underpass Storm System
685	610863	702,327	Leland Ditch Stormwater System
685	610872	800,000	Napoleon Avenue/Broad Street Storm Sewer
685	610874	2,300,000	Cassady Avenue Area Storm Sewer
685	610893	400,000	Gould Park Area Storm Sewer
685	610904	50,000	Fairwood Avenue/Koebel Road Drainage
685	610923	7,510,999	Bliss Run Trunk Sewer
685	610937	75,000	Lockbourne Road Drainage
685	610940	20,000	Wilson Road Drainage
685	610941	2,000,000	Jasonway Avenue Drainage
685	610943	752,254	Hilliard Rome Road Relief Storm Sewer
685	610945	700,000	Cleveland Avenue/Morse Road Drainage
685	610946	370,350	Trentwood/Shadyhill Stormater System
685	610955	60,000	McKinley Avenue Reconstruction/Storm
685	610963	25,000	Hague Avenue Drainage
685	610970	100,000	Towers Court Detention Basin
685	610973	1,300,000	Idlewild Drive Storm Sewer
685	610974	4,000,000	Woodland/5th Avenue Drainage
685	610985	50,000	Skyline Drive Stormwater System
685	610994	54,725	McDannald Subdivison Stormwater System
685	610996	312,722	Briar Meadow Drive Culvert
685	610840	4,912	Oaklawn/Piedmont
685	610722	35,000	Iuka Ravine SSI
685	610806	35,000	Walhalla Ravine
685	610969	28,370	Bliss Run Localized Drainage
685	610990	333,508	North Central Areawide SSI
685	610960	1,000,000	Bexvie Storm Service
685	610965	<u>50,000</u>	Greenhill Acres
	<b>Total</b>	<b><u>\$33,515,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the

adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1179-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$32,120,000 for public safety. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$32,120,000 for public safety (\$32,120,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, it is now deemed necessary to issue and sell \$32,120,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, constructing and improving facilities for the Department of Public Safety's Division of Police, Division of Fire and Division of Communications, including the acquisition of real estate and interest in real estate, the construction, reconstruction, relocation, remodeling, enlargement and improvement of buildings and other structures, the acquisition of furnishings, apparatus, communications equipment and other equipment, landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is thirteen (13) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Thirty-Two Million One Hundred Twenty Thousand Dollars (\$32,120,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding



business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined

Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$32,120,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
701	320010	\$ 836,000	COPS City Match
701	320009	229,000	Uninterrupted Power Supply
701	330021	4,155,000	Police Facility Renovation
701	330023	2,550,000	Police Facility Renovation-Lease
701	330022	1,700,000	Police Training Academy
701	330024	1,400,000	Neighborhood Policing Center
701	340101	8,919,889	Fire Apparatus Replacment
701	340109	1,574,586	Fire Medics
701	340110	842,415	SCBA Replacement
701	340103	3,064,180	Fire Facility Renovation
701	340104	648,930	Land Acquisition
701	340112	3,000,000	FS #10 West Broad Street
701	340113	2,900,000	FS # 35 Waggoner Road
701	340108	<u>300,000</u>	FS # 18 Cleveland Avenue
	<b>Total</b>	<b><u>\$32,120,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

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Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross

income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

**Legislation Number:** 1180-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$7,695,000 for refuse collection. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$7,695,000 for refuse collection (\$7,695,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, it is now deemed necessary to issue and sell \$7,695,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring real estate and interests in real estate, constructing, landscaping and improving facilities for the Division of Refuse Collection, including, but not limited to sanitation trucks, containers and related equipment; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is five (5) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Seven Million Six Hundred Ninety-Five Thousand Dollars (\$7,695,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series

2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.



The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance,

allocable to the Bonds (to wit: \$7,695,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
703	520001	\$7,695,000	Mechanized Collection
	<b>Total</b>	<b>\$7,695,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

**Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage

profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1182-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$6,645,000 for Northland Mall Acquisition. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$6,645,000 for Northland Mall Acquisition (\$6,645,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, it is now deemed necessary to issue and sell \$6,645,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring real estate and interests in real estate in the Northland Mall area, including 84 acres of the former Northland Mall site, site improvements thereon, landscaping, and related appurtenances thereto; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above

which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Six Million Six Hundred Forty-Five Thousand Dollars (\$6,645,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmaturing principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the

principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its

nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be



no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$6,645,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
735	441735	\$6,645,000	Northland Mall Project
	<b>Total</b>	<b><u>\$6,645,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

#### **Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constiutnal, has been exceeded in issuing the Combined Bonds.

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Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1183-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$5,455,000 for the Division of Facilities Management. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$5,455,000 for the Division of Facilities Management (\$5,455,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, it is now deemed necessary to issue and sell \$5,455,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, constructing and improving municipal facilities, including the acquisition of real estate, easements and other interests in real estate, the construction, reconstruction, relocation, remodeling, enlargement and improvement of buildings and other structures, the acquisition of furnishings, apparatus, communications equipment and other equipment, landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is ten (10) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Five Million Four Hundred Fifty-Five Thousand Dollars (\$5,455,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be

placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of

the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest and premium, if any, on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal

Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his

official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$5,455,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
733	570030	\$5,455,000	Facility Renovation
	<b>Total</b>	<b>\$5,455,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings,



setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

**Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1184-2004

**Drafting Date:** 06/17/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of limited tax bonds in the amount of \$4,475,000 for recreation and parks. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of limited tax bonds in the amount of \$4,475,000 for recreation and parks (\$4,475,000)

Section 55(B) of the City Charter.

## Body

WHEREAS, it is now deemed necessary to issue and sell \$4,475,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, renovating and improving municipal parks, playgrounds and recreation facilities including the acquisition of real estate and interests in real estate, the construction, reconstruction, relocation, remodeling, enlargement and improvement of buildings and other structures, the acquisition of furnishings, apparatus, communications equipment and other equipment, landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is seventeen (17) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Four Million Four Hundred Seventy-Five Thousand Dollars (\$4,475,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such

maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar

shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$4,475,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
702	510509	\$4,475,000	Dodge Recreation Center
	<b>Total</b>	<b>\$4,475,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be

limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

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The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1185-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of limited tax bonds in the amount of \$3,490,000 for cable and information services. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of limited tax bonds in the amount of \$3,490,000 for cable and information services (\$3,490,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, it is now deemed necessary to issue and sell \$3,490,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, developing, designing, improving and installing information systems software and hardware and related network infrastructure; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is five (5) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Three Million Four Hundred Ninety Thousand Dollars (\$3,490,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the



Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment

Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest and premium, if any, on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect

transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$3,490,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
752	473001	\$545,000	Digital Head End
752	470010	325,000	Metronet Equipment
514	470030	945,000	Hardware Upgrade
514	470031	200,000	Facility Renovations
514	470032	725,000	SAN Mass Storage
514	470005	250,000	System Migration
514	470033	<u>500,000</u>	City Auditor/Income Tax Imaging & Data Warehousing
	<b>Total</b>	<b><u>\$3,490,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

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The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation hang applicability to the Combined Bonds requires any such reports or rebates and money necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1186-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$1,500,000 for the King Lincoln District. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$1,500,000 for the King Lincoln District (\$1,500,000)

Section 55(B) of the City Charter.

### **Body**

WHEREAS, it is now deemed necessary to issue and sell \$1,500,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring real estate and interests in real estate in connection with urban redevelopment activities in the area known as the King Lincoln District, renovating and otherwise improving the Lincoln Theater, including the acquisition of furnishings, apparatus, and other equipment, landscaping, site improvements, and related appurtenances thereto; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of One Million Five Hundred Thousand Dollars (\$1,500,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special



Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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

Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of

the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$1,500,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
735	441738	\$ 500,000	Land Acquisition (King Lincoln)
735	441736	1,000,000	Lincoln Theater
	<b>Total</b>	<b><u>\$1,500,000</u></b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

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The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by

the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1187-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

To authorize the issuance of limited tax bonds in the amount of \$535,000 for the Department of Health. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$535,000 for the Department of Health. (\$535,000)

Section 55(B) of the City Charter.

## Body

WHEREAS, it is now deemed necessary to issue and sell \$535,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring, constructing and improving facilities for the Department of Health, including the acquisition of real estate and interest in real estate, the construction, reconstruction, relocation, remodeling, enlargement and improvement of buildings and other structures, the acquisition of furnishings, apparatus, and equipment, landscaping and site improvements; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is fifteen (15) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Five Hundred Thirty-Five Thousand Dollars (\$535,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear

interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once

in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other



provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$535,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
706	570053	\$535,000	Blind School Renovation
	<b>Total</b>	<b>\$535,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount

shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

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The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing

the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1188-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

#### **Explanation**

Authorizing the issuance of limited tax bonds in the amount of \$400,000 for Development. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

#### **Title**

Authorizing the issuance of limited tax bonds in the amount of \$400,000 for Development (\$400,000)

Section 55(B) of the City Charter.

#### **Body**

WHEREAS, it is now deemed necessary to issue and sell \$400,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose of acquiring real estate and interests in real estate in the Mt. Vernon Plaza area, including installing and repairing water lines and other public utilities, making related site improvements thereon, landscaping, and related appurtenances thereto; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Four Hundred Thousand Dollars (\$400,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the

Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after

the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be

paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust



company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary

arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$400,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
742	440018	\$400,000	Miscellaneous Development/Mt. Vernon Plaza
	<b>Total</b>	<b>\$400,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of

penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

**Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1189-2004

**Drafting Date:** 06/17/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of limited tax bonds in an amount not to exceed \$335,000 for the purpose of providing funds to

currently refund certain outstanding general obligation bonds of the City. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of limited tax bonds in an amount not to exceed \$335,000 for the purpose of providing funds to currently refund certain outstanding general obligation bonds of the City. (\$335,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, pursuant to Ordinance No. 0817-2004 passed on May 3, 2004 by the City Council (the "Council") of the City of Columbus, Ohio (the "Municipality"), limited tax general obligation bonds of the Municipality, designated "City of Columbus, Ohio Limited Tax General Obligation Refunding Bonds, Series 2004-A" in the aggregate principal amount of \$3,125,000 (the "Outstanding Bonds") were issued and sold by the Municipality for the purpose of currently refunding bonds previously issued by the Municipality; and

WHEREAS, the Municipality can achieve a reduction in the debt service associated with the Outstanding Bonds by providing for the current refunding of the Outstanding Bonds stated to mature after May 1, 2007 (the "Refunded Bonds"); and

WHEREAS, this Council believes that it is in the best interests of the Municipality to currently refund the Outstanding Bonds using proceeds of the Bonds (as hereinafter defined), authorized pursuant to Section 133.34(A)(1), Ohio Revised Code, together with other moneys available for that purpose, if any;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1 . Bonds of the Municipality shall be issued in the principal sum not to exceed Three Hundred Thirty-Five Thousand Dollars (\$335,000) (the "Bonds") for the purpose of providing a portion of the funds necessary to currently refund the Refunded Bonds, and paying other costs incidental thereto.

Section 2 . There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3 . The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4 . It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5 . The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning on January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in the Certificate of Award.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6 . The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance and shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed

payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7 . The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if, any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8 . The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9 . The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined), and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means the first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds, are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award, provided that no such date shall be later than the last maturity of the Refunded Bonds.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than 97% of the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Combined Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award, provided no such date shall be later than the last maturity of the Refunded Bonds.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of



Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited to, the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

The proceeds of sale of the Combined Bonds shall be allocated and deposited as follows:

(a) to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law (and said proceeds are hereby appropriated for such purpose), any accrued interest paid by the Original Purchaser;

(b) to the proper Bond Retirement Fund and applied to redeem the Refunded Bonds on or before September 15, 2003 (and said proceeds are hereby appropriated for such purpose), the remainder of the proceeds of sale of the Combined Bonds.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10 . The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor, and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the

Municipality with sections 141 through 150 of the Code and the Regulations.

**Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates, and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11 . The Director of Finance and the City Auditor and each of them, acting alone, are hereby authorized and directed, for and in the name of the Municipality and on its behalf, to give such notices as may be required in order to effect the redemption of the Refunded Bonds on the date of issuance of the Combined Bonds or as soon thereafter as is reasonably practicable.

Section 12 . It is hereby found and determined that all act, conditions and things necessary to be done precedent to and in the issuing of the Combined Bods in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 13 . It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 14 . The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 15 . In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1190-2004

**Drafting Date:** 06/17/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of limited tax bonds in the amount of \$300,000 for Taylor Homes Phase II. This bond sale will be conducted on a competitive basis and is a cooperative effort of the Department of Finance and the City Auditor's Office.

**Title**

Authorizing the issuance of limited tax bonds in the amount of \$300,000 for Taylor Homes Phase II (\$300,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, it is now deemed necessary to issue and sell \$300,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose acquiring of real estate and interests in real estate in connection with urban redevelopment in the Taylor Avenue Homes Project area, including site improvements thereon, landscaping and related appurtenances thereto; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Three Hundred Thousand Dollars (\$300,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond

so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall

be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge

and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$300,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
735	441737	\$300,000	Taylor Homes Phase II
	<b>Total</b>	<b>\$300,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial

advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

#### **Break1**

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the



adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1191-2004

**Drafting Date:** 06/17/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

**Explanation**

To authorize the issuance of limited tax bonds in the amount of \$200,000 for West Edge Business Center.

**Title**

Authorizing the issuance of limited tax bonds in the amount of \$200,000 for West Edge Business Center (\$200,000)

Section 55(B) of the City Charter.

**Body**

WHEREAS, it is now deemed necessary to issue and sell \$200,000 of bonds under authority of the general laws of the State of Ohio, and in particular Section 133.23 of the Ohio Revised Code, for the purpose acquiring of real estate and interests in real estate in connection with the urban redevelopment in the West Edge Business Center area, including site improvements and landscaping thereon, constructing and reconstructing the roadway along Harmon Avenue, constructing right-of-way improvements to the Mound and Souder intersection, and constructing, reconstructing and repairing sidewalks and curbs; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated above which is to be financed from the proceeds of said bonds exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. Bonds of the City of Columbus, Ohio (the "Municipality") shall be issued in the principal sum of Two Hundred Thousand Dollars (\$200,000) (the "Bonds") for the purpose set forth above and for paying the cost of advertising, printing and legal services and other costs incidental thereto. The Bonds shall be issued in one lot.

Section 2. There shall be and is hereby levied annually on all the taxable property in the Municipality, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 3. The Debt Service Levy shall be and is hereby 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Municipality determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Municipality shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 4. It is hereby determined that, for purposes of issuance and sale, it is in the best interests of the Municipality to combine the Bonds with 13 other limited tax bond issues of the Municipality, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds will be jointly referred to herein as the "Combined Bonds". The Combined Bonds shall be designated "City of Columbus, Ohio Various Purpose Limited Tax Bonds, Series 2004-2".

Section 5. The Combined Bonds shall be issued only as fully registered bonds, in the denomination of \$5,000 or any integral multiple thereof but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered from R-1 upward; shall be dated as set forth in the Certificate of Award hereinafter identified; shall bear interest payable semi-annually on the first day of January and July of each year (the "Interest Payment Dates") beginning January 1, 2005, until the principal sum is paid; and shall bear interest at the rates and shall mature and be subject to mandatory and optional redemption in the years and at the redemption prices as shall be set forth in a Certificate of Award hereinafter identified.

If less than all of the then outstanding Combined Bonds are called for redemption, the Combined Bonds so called shall be selected by lot by the Municipality in such manner as it shall determine. When partial redemption of a single maturity of Combined Bonds is authorized, the Bond Registrar shall select Combined Bonds or portions thereof by lot within such maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Combined Bond so selected will be in the amount of \$5,000 or an integral multiple thereof.

The right of redemption shall be exercised by notice specifying by numbers the Combined Bonds to be called, the redemption price to be paid, the date fixed for redemption and the places where amounts due upon such redemption are payable. The Municipality shall cause such notice to be given by first class mail, postage prepaid, to the registered holder or holders of the Combined Bonds to be redeemed, mailed to the address shown on the registration books, not less than thirty (30) days prior to such redemption date. All Combined Bonds so called for redemption shall cease to bear interest on the redemption date, provided moneys for the redemption of said Combined Bonds are on deposit at the office of the Bond Registrar at that time.

Section 6. The Combined Bonds shall set forth the purposes for which they are issued and that they are issued pursuant to this Ordinance. The Combined Bonds shall be executed by the Mayor and the City Auditor of the Municipality, in their official capacities, provided that any of those signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined in Section 7 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and premium, if any, and interest on the Combined 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. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is after the 15th day of the calendar month immediately preceding the month in which an Interest Payment Date occurs, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest

Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month immediately preceding the month in which occurs that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 7 hereof) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each registered owner, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 6, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 7. The Trustees of the Sinking Fund of the City of Columbus are appointed to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Combined Bonds. So long as any of the Combined Bonds remain outstanding, the Municipality will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of Section 6 hereof, the person in whose name any Combined Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and premium, if any, and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the Municipality nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the principal office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the principal office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The Municipality and the Bond Registrar shall not be required to transfer or exchange any Combined Bond for a period of fifteen days next preceding the date of its maturity.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the Municipality shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Municipality 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 Municipality or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the Municipality, evidencing the same debt, and entitled to the

same benefits under this Ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 8. The Combined Bonds shall be initially issued to a Depository for use in a book entry system (each as hereinafter defined), and the provisions of this Section shall apply notwithstanding any other provision of this Ordinance: (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined 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 Municipality. Principal of and premium, if any, and interest on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of a Combined Bond in the custody of a Depository providing for making all payments to that owner of principal of and premium, if any, and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and the Municipality. That payment in any event shall be made to the person who is the registered owner of the Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar will furnish a copy of each of these agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the Municipality. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The City Auditor or the Director of Finance of the Municipality, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Municipality, the letter agreement among the Municipality, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered, in connection with the issuance of the Combined Bonds to a Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the Municipality and the Bond Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under this Ordinance. If the Municipality and the Bond Registrar do not or are unable to do so, the Municipality and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository, and authenticate and deliver Combined Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the Municipality or the Bond Registrar, of those persons requesting such issuance.

For purposes of this Ordinance the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to a Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds, and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

Section 9. The sale and award of the Combined Bonds shall be evidenced by the Certificate of Award signed by the Director of Finance or the City Auditor. The Certificate of Award shall identify the original purchaser of the Combined Bonds (the "Original Purchaser"), who shall be selected in accordance with the provisions of the Form of Notice of Limited Tax Bond Sale attached hereto as Exhibit A, and shall state the aggregate principal amount of the Combined Bonds to be issued, the dated date of the Combined Bonds, the Purchase Price, the Specified Interest Rates, the Principal Retirement Dates, the Principal Retirement Schedule, Mandatory Redemption Dates, Mandatory Sinking Fund Requirements, Term Bonds, Term Maturity Dates, the Optional Earliest Redemption Date and the Optional Redemption Prices (all as hereinafter defined) and shall include such additional information as shall be required by the terms of this Ordinance and the Certificate of Award.

As used in this Section 9 and Section 5 hereof:

"Certificate of Award" means the certificate authorized by this Section 9 to be executed by the Director of Finance or the City Auditor setting forth and determining such terms and other matters pertaining to the Combined Bonds, their issuance, sale or delivery, as are authorized and directed to be determined therein by this Ordinance.

"Mandatory Redemption Dates" means first day of July in the years to be specified in the Certificate of Award in which the Combined Bonds that are Term Bonds are to be redeemed pursuant to Mandatory Sinking Fund Requirements.

"Mandatory Sinking Fund Requirements" means, as to Combined Bonds maturing on Term Maturity Dates, amounts sufficient to redeem such Combined Bonds (less the amount of credit as provided in the Certificate of Award) on each Mandatory Redemption Date, as are to be set forth in the Certificate of Award.

"Optional Earliest Redemption Date" means the date specified in the Certificate of Award as the earliest date on which Combined Bonds may be called for redemption at the option of the Municipality.

"Optional Redemption Prices", if any, for the Combined Bonds shall be as set forth in the Certificate of Award, but shall not exceed 100% of the principal amount to be so redeemed.

"Principal Retirement Dates" means the first day of July in the years in which the Combined Bonds are to be retired in accordance with their stated terms, which dates are to be specified in the Certificate of Award; provided that the Principal Retirement Dates shall be such that the final maturity of the principal portion of the Bonds included in the Combined Bonds is not later than the final maturity date permitted pursuant to Section 133.20, Ohio Revised Code.

"Principal Retirement Schedule" means the schedule for the retirement of the principal of the Combined Bonds on the Principal Retirement Dates, in accordance with their stated terms, in the years of Principal Retirement Dates and in the amounts to be retired which shall be determined in the Certificate of Award.

"Purchase Price" means that amount which is to be determined in the Certificate of Award, but such amount is to be no less than the aggregate principal amount of the Combined Bonds, together with accrued interest on the Combined Bonds from their date to the date of their delivery and payment therefor.

"Specified Interest Rates" means the interest rate or rates at which the Combined Bonds bear interest, which rates are to be determined in the Certificate of Award, provided the true interest cost of the Bonds shall not exceed five per centum (5.00%).

"Term Bonds" means those Combined Bonds, as are determined in the Certificate of Award, that are to mature on Term Maturity Dates, unless previously redeemed pursuant to Mandatory Sinking Fund Requirements.

"Term Maturity Dates" means the first day of July in the year or years in which Combined Bonds that are Term Bonds are to be retired in accordance with their stated terms, which date or dates are to be determined in the Certificate of Award.

The Director of Finance, the City Auditor and the City Clerk are authorized and directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Combined Bonds to the Original Purchaser. Those officers are further directed to take all steps necessary to effect due

execution, authentication and delivery of the Combined Bonds under the terms of this Ordinance.

The distribution of an Official Statement of the Municipality, in preliminary and final form, relating to the original issuance of the Combined Bonds is hereby authorized, and the Director of Finance and the City Auditor, and each of them acting alone, is hereby authorized and directed to negotiate, prepare and execute, on behalf of the Municipality and in his official capacity, the Official Statement and any supplements thereto as so executed in connection with the original issuance of the Combined Bonds, and he is authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Combined Bonds as he deems necessary or appropriate to protect the interests of the Municipality. The Director of Finance, the City Auditor, the City Attorney and any other official of the Municipality are each authorized to execute and deliver, on behalf of the Municipality and in their official capacities, such certificates in connection with the accuracy of the Official Statement, in either preliminary or final form, and any supplements thereto as may, in their judgment, be necessary or appropriate.

The proceeds from the sale of the Combined Bonds, except accrued interest, premium, if any, or costs of issuance, allocable to the Bonds (to wit: \$200,000) shall be deposited in the City Treasury and allocated to the following funds and projects in the amounts set forth below:

<u>Fund</u>	<u>Project</u>	<u>Amount</u>	<u>Description</u>
735	441739	\$200,000	West Edge Business Center
	<b>Total</b>	<b>\$200,000</b>	

Any premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal and interest of the Combined Bonds in the manner provided by law. All money necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

To provide for the payment of the costs of issuance of the Combined Bonds, which shall include, but shall not be limited, to the fees and expenses of the Municipality's bond counsel, the fees and expenses of the Municipality's financial advisor, rating agency fees, the fees and expenses associated with competitive sale of the Combined Bonds and printing fees, the Municipality is hereby authorized to expend a sum not to exceed Five Hundred Thousand Dollars (\$500,000), and such amount is hereby deemed appropriated, which amount shall be allocated to, and paid from, the benefiting funds as determined by the City Auditor. Initial funds for the payment of such costs of issuance are hereby appropriated from Debt Service Fund #430, which fund shall then be reimbursed by the benefiting funds as determined by the City Auditor.

This Council hereby declares that the Combined Bonds are "obligations" within the meaning of Section 323.07(a)(7) of the Columbus City Codes. The Certificate of Award shall identify the annual financial information and operating data which will constitute the "annual information" for purposes of said Section 323.07.

Section 10. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further covenants that it will restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

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The City Auditor, the Deputy Auditor and the Director of Finance, or any other officer, including the City Clerk, and each of them acting alone, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Municipality with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements

for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, the Deputy Auditor or the Director of Finance, which action shall be in writing and signed by the City Auditor, the Deputy Auditor or the Director of Finance, or any other officer, including the City Clerk, on behalf of the Municipality; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Municipality, as may be appropriate to assure such exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of Combined Bond proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates and moneys necessary to make such rebates are hereby appropriated for such purpose.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 12. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. The City Clerk is hereby directed to forward certified copies of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

Section 14. In accordance with Section 55(b) of the Charter of the City of Columbus, Ohio, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 1268-2004

**Drafting Date:** 06/25/2004

**Version:** 1

**Current Status:** Passed

**Matter Type:** Ordinance

**Explanation**

**Background:**

This ordinance will authorize the Director of Recreation and Parks to enter into a contract with the Franklin County

Commissioners for Summer Youth Employment - Temporary Assistance for Needy Families (TANF) Funds and appropriate said funds.

TANF funds are grant funds that are passed through the Federal - State - County levels.

These funds will subsequently be legislated through the Private Industry Council for administration and distribution.

Youth will be working within the areas of Recreation, Parks, and Administration.

Emergency action is necessary as program is scheduled to begin immediately.

**Fiscal Impact:**

This ordinance will reduce the unappropriated balance of the Recreation and Parks Grant Fund by \$394,706.85.

The expenditure of \$394,706.85 is budgeted in the Recreation and Parks Grant Fund.

**Title**

To authorize the Director of Recreation and Parks to enter into a contract with the Franklin County Commissioners for the Summer Youth Employment - Temporary Assistance for Needy Families Funds, to appropriate said funds, and to declare an emergency. (\$394,706.85)

**Body**

**WHEREAS**, it is necessary to enter into contract with the Franklin County Commissioners for the Summer Youth Employment - Temporary Assistance for Needy Families; and

**WHEREAS**, an emergency exists in the usual daily operation of the Recreation and Parks Department in that it is immediately necessary to appropriate said funds as program is scheduled to begin immediately; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the Director of Recreation and Parks be and he is hereby authorized and directed to enter into a contract with the Franklin County Commissioners for the Summer Youth Employment - Temporary Assistance for Needy Families.

**SECTION 2.** That from the unappropriated monies in the Recreation and Parks Grant Fund and from all monies estimated to come into said fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2004, the sum of \$394,706.85 is appropriated to the Recreation and Parks Grant Fund No. 286, Dept. 51-01, as follows.

<u>Fund Type</u>	<u>Grant No.</u>	<u>Object Level 3</u>	<u>OCA Code</u>	<u>Amount</u>
Grant	514029	3336	514029	\$394,706.85

**SECTION 3.** That the monies in the foregoing Section 2 shall be paid upon order of the Director of Recreation and Parks, and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

**SECTION 4.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.



**Legislation Number:** 1272-2004

**Drafting Date:** 06/25/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Ordinance

### **Explanation**

#### **Background:**

This ordinance will authorize and direct the Director of Recreation and parks to enter into contract with the Private Industry Council (PIC) for the operation of the 2004 Summer Youth Employment Program.

The Federal ID Number for PIC is #31-1071765.

A contract with the Franklin County Commissioners will provide funding for this contract.

PIC will be responsible for hiring, administration and distribution of funds.

Youth will be working within the areas of Recreation, Parks and Administration.

Emergency legislation is required so the contract can be in place as the program is scheduled to begin immediately

#### **Fiscal Impact**

\$394,706.85 is required and budgeted in the Recreation and Parks Grant Fund to meet the financial obligation of this contract.

### **Title**

To authorize the direct the Director of Recreation and Parks to enter into contract with the Private Industry Council for the 2004 Summer Youth Employment Program, to authorize the expenditure of \$394,706.85 from the Recreation and Parks Grant Fund , and to declare an emergency (\$394,706.85)

### **Body**

**WHEREAS**, it is necessary to enter into contract with the Private Industry Council for the administration and distribution in conjunction with the 2004 Summer Youth Employment Program; and

**WHEREAS**, an emergency exists in the usual daily operation of the Recreation and Parks Department in that it is immediately necessary to enter into said contract for as the program is scheduled to begin immediately; now, therefore

#### **BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Director of Recreation and Parks be and he is hereby authorized and directed to enter into contract with the Private Industry Council for the 2004 Summer Youth Employment Program.

**Section 2.** That the expenditure of \$394,706.85, or so much thereof as may be necessary, be and is hereby authorized from Recreation and Parks Grant Fund, as follows, to pay the cost thereof.

**Fund Type;** Grant, **Dept. No.;** 51-01, **Fund No.;** 286, **Grant No.;** 514029, **Object Level 3;** 3336, **OCA Code;** 514029, **Amount;** \$394,706.85

**Section 3.** That the City Auditor is hereby authorized to transfer the unencumbered balance in a project account to the unallocated balance account within the same fund upon receipt of certification by the Director of the Department administering said project that the project has been completed and the monies are no longer required for said project;

except that no transfer shall be so made from a project account funded by monies from more than one source.

**Section 4.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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**Legislation Number:** 159X-2004

**Drafting Date:** 06/18/2004

**Current Status:** Passed

**Version:** 1

**Matter Type:** Resolution

**Title**

To accept the "Capital Improvements Program, 2004 - 2009," as described herein, as the primary guide for the Capital Improvements Budget ordinance.

**Body**

WHEREAS, a Capital Improvements Program is needed to provide information and guidelines for the consideration and adoption of the annual Capital Improvements Budget; and

WHEREAS, a Capital Improvements Budget for the year 2004 has been adopted by Council under a separate ordinance;  
Now Therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That the Capital Improvements Program for the years 2004 - 2009 described herein is hereby accepted as the primary guide for the consideration and adoption of the 2004 Capital Improvements Budget ordinance.

Section 2. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

# City RFPs, RFQs, and Bids

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

**CITY OF COLUMBUS FORMAL BID OPPORTUNITIES ARE UPDATED DAILY AT:  
<http://finance.ci.columbus.oh.us/purchasing/openbids/sabids.html>**

Each proposal shall contain the full name and address of every person, firm or corporation interested in the same, and if corporation, the name and address of the President and Secretary.

**EQUAL OPPORTUNITY CLAUSE:** Each responsive bidder shall submit, with its bid, a contract compliance certification number or a completed application for certification. Compliance with the provisions of Article I, Title 39, is a condition of the contract. Failure to comply with this Article may result in cancellation of the contract.

**WITHHOLDING OF INCOME TAX:** All bidders are advised that in order for a contract to bind the City, each contract must contain the provisions found in Section 361.34 C.C.C. with regard to income taxes due or payable to the City of Columbus for wages, salaries and commissions paid to the contractor's employees as well as requiring those contractors to ensure that subcontractors withhold in a like manner.

**DELINQUENT PERSONAL PROPERTY TAX:** All bidders are charged with notice of Section 5719.042 of the Ohio Revised Code and agree that if this contract is awarded to them, the successful bidder, prior to the time the contract is entered into, will submit to the City Auditor the affidavit required by said section of the Ohio Revised Code. Said affidavit, when filed with City Auditor, is thereby incorporated into and made a part of this contract and no payment shall be made with respect to this contract unless such statement has been so incorporated as a part thereof.

**LOCAL CREDIT:** For all contracts EXCEPT PROFESSIONAL SERVICE CONTRACTS: In determining the lowest bid for purpose of awarding a contract not exceeding \$20,000.00, a local bidder shall receive a credit equal to five percent (5%) of the lowest bid submitted by a non-local bidder. In determining the lowest bid for purposes of awarding a contract in excess of \$20,000.00, a local bidder shall receive a credit equal to one percent (1%) or \$20,000.00, whichever is less, of the lowest bid submitted by a non-local bidder. A local bidder is a person, corporation or business which (a) has listed its principal place of business as being located within the corporation limits of the City of Columbus or the County of Franklin in official documents filed with Secretary of State, State of Ohio, or a valid vendor's license which indicates its place of business is located within the corporation limits of the City of Columbus or County of Franklin.

FOR COPIES OF ANY OF THE FOLLOWING BID PROPOSALS CALL THE LISTED DIVISION

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

BID OPENING DATE - July 7, 2004 3:00 pm

SA001191 - Project Dry Basement - DOSD

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

ADVERTISEMENT FOR BIDS

Sealed bids will be received by the Director of Public Utilities of the City of Columbus, Ohio at the office of the Director of Public Utilities, 910 Dublin Road, Room 4105, until 3:00 P.M., local Time, on July 7, 2004 and publicly opened and read at that hour and place for the following project:

CITY OF COLUMBUS  
DIVISION OF SEWERAGE AND DRAINAGE  
PROJECT DRY BASEMENT

The work for which bids are invited consists of, but is not limited to, the installation of devices appropriate for elimination of Water In Basements (WIBs) in residences within the City of Columbus. These devices will typically include an approved backwater prevention valve; some installations may require a sump pump. Sump pumps will be installed only where necessary to eliminate foundation drains from the sanitary sewer. Other devices determined by the City of Columbus may be considered if deemed necessary to protect a residence from future WIBs.

Refer to the Scope of Work, specifications and drawings included in the Bid Submittal Documents, for details.

Each of the Sections in the Scope of Work can be bid separately or in combination with others. An individual cost shall be required for each Section under consideration and for each item therein

Copies of the Contract Documents are on file at the offices of the Division of Sewerage and Drainage, 910 Dublin Road, 4th floor, Room 4164, Columbus, Ohio, 43215, and are available, at no cost, through the Division of Sewerage and Drainage. Please contact Joe Lombardi at (614) 645-6031.

Bids must be submitted on the proper forms contained in the Bid Submittal Documents. The Bid Submittal Documents must be submitted, in their entirety, in a sealed envelope marked:

Bid for

CITY OF COLUMBUS  
DIVISION OF SEWERAGE AND DRAINAGE  
PROJECT DRY BASEMENT

Any unauthorized conditions, limitations, or provisions attached to the Bid Submittal Documents may render a bid non-responsive and result in its rejection. Bidders are invited to be present at the Bid Opening.

PREVAILING WAGE RATE

Attention of the bidder is called to the special requirements which are included in the Bid Submittal Documents regarding prevailing rates of wages to be paid.

CONTRACT COMPLIANCE REQUIREMENTS

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification. Compliance with the provisions of Article I, Title 39, as defined in the Columbus City Code 3901.01, is a condition of this contract. Failure or refusal of a

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

contractor or subcontractor to comply with this Article may result in the cancellation of the Contract. Applications for the Columbus Contract Compliance Certification Number can be obtained by calling (614) 645-4764 or downloaded from the city web site [ci.columbus.oh.us](http://ci.columbus.oh.us). A list of all currently registered minority and female owned and operated businesses can be obtained from The Equal Business Opportunity Office at (614) 645-4764.

**BID CANCELLATION AND REJECTIONS**

The right is reserved by the Director of Public Utilities of the City of Columbus, Ohio to cancel the Advertisement for Bids, to reject any and/or all bids, to waive technicalities, to hold bids for a period of 180 days after the bid opening, and/or to advertise for new proposals, when it is in the best interests of the City.

**CREDITABLE FACTORS**

In determining the lowest bid for purposes of awarding a contract, the creditable factors, noted in the proposal forms shall apply.

**SPECIAL REQUIREMENTS**

Particular attention is called to the statutory requirements of the State of Ohio relative to licensing of corporations organized under the laws of any other state.

**PRE-BID CONFERENCE**

A pre-bid workshop for this project will be held on June 29, 2004 at 9:00 a. m. in the 1st Floor Auditorium, at the Utilities Complex, 910 Dublin Rd., Columbus, Ohio 43215. This meeting is mandatory for all potential bidders that did not attend the workshop held on May 18th, 2004.

**EQUAL OPPORTUNITY CLAUSE:**

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment up-grading, demotion, or termination; rates of pay or other forms of compensation; and selection for training. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provision of this Equal Opportunity Clause.

(2) The contractor will, in all solicitations of advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal-opportunity employer.

(3) It is the policy of the City of Columbus that business concerns owned and operated by minority and female persons shall have the maximum practicable opportunity to participate in the performance of contracts awarded by the City.

(4) The contractor shall permit access to any relevant and pertinent reports and documents by the Executive Director for the sole purpose of verifying compliance with this Article, and with the regulations of the Contract Compliance Office. All such materials provided to the Executive Director by the contractor shall be considered confidential.

(5) The contractor will not obstruct or hinder the Executive Director or his deputies, staff and assistants in the fulfillment of the duties and responsibilities imposed by Article I, Title 39.

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

(6) The contractor and each subcontractor will include a summary of this Equal Opportunity Clause in every subcontract. The contractor will take such action with respect to any subcontractor as is necessary as a means of enforcing the provisions of the Equal Opportunity Clause.

(7) The contractor agrees to refrain from subcontracting any part of this contract or contract modification thereto to a contractor not holding a valid certification number as provided for in Article I, Title 39.

(8) Failure or refusal of a contractor or subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this contract. (Ord. 1178-95.)

Cheryl Roberto,  
Director of the Department of Public Utilities  
ORIGINAL PUBLISHING DATE: June 19, 2004

BID OPENING DATE - July 8, 2004 11:00 am

SA001168 - Purchase of Soccer Uniform Sets

1.0 SCOPE AND CLASSIFICATION

1.1 Scope: The City of Columbus, Recreation and Parks Department is obtaining bids to establish a Universal Term Contract for the purchase of soccer uniforms. The contract will be from date of execution up to and including 12/31/06. Items will be delivered to any City of Columbus agency.

1.2 Classification: Items to be bid on are youth and adult soccer uniform sets.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215.

ORIGINAL PUBLISHING DATE: June 19, 2004

SA001183 - TRANSPORTATION/STRIPING APPARATUS

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

1.1 Scope: It is the intent of the City of Columbus, Transportation Division to obtain formal bids to establish a contract for the purchase of Thermoplastic Striping Apparatus for use by the Traffic Section in applying thermoplastics to roadways.

1.2 Classification: The successful vendor shall be responsible for building and delivering a complete Thermoplastic Striping Apparatus to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 15, 2004

SA001184 - REFUSE/AUTOMATED SIDE LOADING PACKERS

1.1 Scope: It is the intent of the City of Columbus, Public Service Department/Refuse Collection Division to obtain formal bids to establish a contract for the purchase of automated side loading refuse collection trucks for use to collect refuse through the year 2014, more or less.

1.2 Classification: The City of Columbus will accept bids for (1) cabs and chassis only; (2) bodies only; or (3) complete units--cabs, chassis and bodies. There is a local vendor component to this bid.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 15, 2004

SA001185 - TRANS/4 WHEEL SWEEPER W/TRADE IN

1.1 Scope: It is the intent of the City of Columbus, Transportation Division to obtain formal bids to establish a contract for the purchase of two 4-Wheel High Dump Sweepers w/Trade-In, for use in the street sweeping operations.

1.2 Classification: The successful vendor shall be responsible for building and delivering a complete 4-Wheel High Dump Sweeper to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 16, 2004



THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SA001189 - DOSD/TRUCK BODIES

1.1 Scope: It is the intent of the City of Columbus Sewer Maintenance Operations Center to purchase one (1) flatbed truck body and two (2) one ton 3-4 cubic yard dump bodies to be mounted on 2004 Ford F-450 cab and chassis, which the City of Columbus will provide. The specifications will describe the bodies and equipment to be provided as two separate items in the requirements section. All items will be installed by the supplier.

1.2 Classification: All parts not specifically mentioned, which are necessary to provide complete units, shall be included in the bid and conform in strength and quality of material and workmanship to what is usually provided to the trade in general. The truck bodies shall be current models under standard production by the manufacturer.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 18, 2004

SA001197 - Unireq Paint/Paint Supplies

1.1 Scope: It is the intent of the City of Columbus to obtain formal bids for all City agencies, mainly the Water Division, to establish a formal universal term contract for the purchase of paint and paint supplies for use throughout the City through September 30, 2007.

1.2 Classification: This will be a catalog concept bid, with percentage off catalog pricing. Suppliers are to offer complete catalogs for purchases throughout the contract period. Suppliers shall submit their standard published catalog(s) and price lists.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 23, 2004

BID OPENING DATE - July 13, 2004 3:00 pm

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SA001192 - FMD - SKYWALK - RENOV. ACCESS CONTROL

ADVERTISEMENT FOR BIDS

RENOVATION OF ACCESS CONTROL AND ALARM MONITORING (ACAM) SYSTEMS AT THE SKYWALKS, 300 NORTH HIGH STREET

Sealed bids will be received by the Department of Public Service, Division of Facilities Management of the City of Columbus, Ohio at their office, located at 90 West Broad Street, basement, Room B16, Columbus, Ohio 43215 until 3:00 p.m. local time, and publicly opened and read at the hour and place on Tuesday, July 13, 2004 for RENOVATION OF ACCESS CONTROL AND ALARM MONITORING (ACAM) SYSTEMS AT THE SKYWALK, 300 NORTH HIGH STREET. The work for which bids are invited consist of renovation of the access control and alarm monitoring equipment at the skywalks.

Copies of the Contract Documents are available in the office of Facilities Management, 90 West Broad Street, Basement Level, Room B16, Columbus, Ohio 43215 beginning Monday, June 28, 2004. The first set of contract documents are available to prospective bidders at no cost. Additional sets are available to prospective bidders at a non-refundable cost of \$25.00 for each set.

Proposals must be submitted on the proper forms contained in the Bid Documents and the Bid Documents containing the Proposals must be submitted IN THEIR ENTIRETY in a sealed envelopment marked: Bid for: RENOVATION OF ACCESS CONTROL AND ALARM MONITORING (ACAM) SYSTEMS AT THE SKYWALK, 300 NORTH HIGH STREET.

FAILURE TO RETURN THE BID PACKET AND REQUIRED INFORMATION MAY RESULT IN REJECTION OF THE PROPOSAL.

PROPOSAL GUARANTY

The bidder is required to submit a Proposal Guaranty, consisting either of a Proposal Bond, in the form provided in the Bid Submittal Documents with a surety or sureties licensed to conduct business in the State of Ohio, or a certified check drawn on a solvent bank made payable to the Treasurer - City of Columbus, Ohio. The amount of the guaranty shall be expressed in dollars and cents and shall not be less than ten (10) percent of the bid including all alternates submitted which increase the bid. All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

PREVAILING WAGE RATE

Attention of the bidder is called to the special requirements which are included in the Bid Documents regarding prevailing rates of wages to be paid. Bidders must comply with the prevailing wage rates on Public Improvements of Franklin County and the City of Columbus in the State of Ohio as determined by the Ohio Bureau of Employee Services, Wage and Hour Division (614-644-2239).

CONTRACT PERFORMANCE AND PAYMENT BOND

A contract performance and payment bond of 100 percent of the amount of the contract with a surety or sureties licensed to conduct business in the State of Ohio according to Section 103.05 of the City of

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

Columbus Construction and Materials Specifications, latest edition, will be required to assure the faithful performance of the work.

**PRE-BID MEETING**

A pre-bid meeting will be held Thursday, July 1, 2004 at 10:00 a.m., at City Hall, 90 West Broad Street, Room B16, Columbus, Ohio 43215. A schedule for the walk thru of the area will be discussed at the pre-bid meeting.

**OSHA/EPA REQUIREMENTS**

Contractors are subject to all applicable federal, state and local laws, ordinances, rules and regulations pertaining to services or products to be provided under this contract.

**CONSTRUCTION AND MATERIALS SPECIFICATIONS**

Numbered paragraphs to which reference is made in these Bid Submittal Documents refer to the City of Columbus, Ohio Construction and Material Specifications, latest edition and will become part of the terms and conditions of the contract to be awarded. Said specification are hereby made a part of these Bid Submittal Documents. Bidders are required to examine Section 100, General Provisions, for the requirements necessary to submit a proposal. Copies of said Construction and Materials Specifications may be examined and/or purchased at the office of the Director of Public Service, 90 West Broad Street, Room 301, Columbus, Ohio 43215, (614) 645-8290, at the office of the Transportation Division, 1800 East 17th Avenue, Columbus, Ohio 43219, (614) 645-3182, at the Director of Public Utilities, 910 Dublin Road, 4th Floor, Columbus, Ohio 43215, (614) 645-6141.

**CONTRACT COMPLIANCE REQUIREMENTS AND EQUAL OPPORTUNITY CLAUSE**

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification. Any questions or inquiries concerning this should be directed to the Equal Business Opportunity Commission Office.

The City of Columbus encourages the participation of Minority and female owned business enterprises. Each bidder must identify any subcontractor(s) who are minority or female owned businesses (M/FBE's) as defined in Title 39 of the Columbus City Code along with the scope of work and anticipated cost.\* This information is gathered and monitored by the Equal Business Opportunity Commission Office (EBOCO). Please contact EBOCO (614) 645-4764 for assistance with identifying potential M/FBE subcontractors. Equal Business Opportunity Commission Office, 109 N. Front Street 4th Floor, Columbus, Ohio 43215, (614) 645-4764.

\*While the participation of minority and female owned businesses is encouraged the level of minority or female participation will not be a condition of the bid award.

**BID CANCELLATION AND REJECTIONS**

The right is reserved by the Director of Public Service of the City of Columbus, Ohio to cancel the Advertisement for Bids, to reject any and/or all bids, to waive technicalities, or to advertise for new proposals, when it is in the best interest of the City. Also, the right is reserved by the Public Service Director to hold bids for a period of 180 days after the bid opening for evaluating both the proposals and the contractors. The award of the contract may be made at any time during that period.

**SPECIAL REQUIREMENTS**

Particular attention is called to the statutory requirements of the State of Ohio relative to licensing of

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

corporations organized under laws of any other state.  
ORIGINAL PUBLISHING DATE: June 19, 2004

SA001193 - FMD - SKYWALK - RENOV. OF DOORS

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

ADVERTISEMENT FOR BIDS

RENOVATION OF THE DOORS AT THE SKYWALKS, 300 NORTH HIGH STREET

Sealed bids will be received by the Department of Public Service, Division of Facilities Management of the City of Columbus, Ohio at their office, located at 90 West Broad Street, basement, Room B16, Columbus, Ohio 43215 until 3:00 p.m. local time, and publicly opened and read at the hour and place on Tuesday, July 13, 2004 for RENOVATION OF THE DOORS AT THE SKYWALK, 300 NORTH HIGH STREET. The work for which bids are invited consist of renovation of the doors, hardware, closures, etc., at the skywalks.

Copies of the Contract Documents are available in the office of Facilities Management, 90 West Broad Street, Basement Level, Room B16, Columbus, Ohio 43215 beginning Monday, June 28, 2004. The first set of contract documents are available to prospective bidders at no cost. Additional sets are available to prospective bidders at a non-refundable cost of \$25.00 for each set.

Proposals must be submitted on the proper forms contained in the Bid Documents and the Bid Documents containing the Proposals must be submitted IN THEIR ENTIRETY in a sealed envelopment marked: Bid for: RENOVATION OF THE DOORS AT THE SKYWALK, 300 NORTH HIGH STREET.

FAILURE TO RETURN THE BID PACKET AND REQUIRED INFORMATION MAY RESULT IN REJECTION OF THE PROPOSAL.

PROPOSAL GUARANTY

The bidder is required to submit a Proposal Guaranty, consisting either of a Proposal Bond, in the form provided in the Bid Submittal Documents with a surety or sureties licensed to conduct business in the State of Ohio, or a certified check drawn on a solvent bank made payable to the Treasurer - City of Columbus, Ohio. The amount of the guaranty shall be expressed in dollars and cents and shall not be less than ten (10) percent of the bid including all alternates submitted which increase the bid. All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

PREVAILING WAGE RATE

Attention of the bidder is called to the special requirements which are included in the Bid Documents regarding prevailing rates of wages to be paid. Bidders must comply with the prevailing wage rates on Public Improvements of Franklin County and the City of Columbus in the State of Ohio as determined by the Ohio Bureau of Employee Services, Wage and Hour Division (614-644-2239).

CONTRACT PERFORMANCE AND PAYMENT BOND

A contract performance and payment bond of 100 percent of the amount of the contract with a surety or sureties licensed to conduct business in the State of Ohio according to Section 103.05 of the City of Columbus Construction and Materials Specifications, latest edition, will be required to assure the faithful performance of the work.

PRE-BID MEETING

A pre-bid meeting will be held Thursday, July 1, 2004 at 10:00 a.m., at City Hall, 90 West Broad Street, Room B16, Columbus, Ohio 43215. A schedule for the walk thru of the area will be discussed at the pre-bid meeting.

OSHA/EPA REQUIREMENTS

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

Contractors are subject to all applicable federal, state and local laws, ordinances, rules and regulations pertaining to services or products to be provided under this contract.

**CONSTRUCTION AND MATERIALS SPECIFICATIONS**

Numbered paragraphs to which reference is made in these Bid Submittal Documents refer to the City of Columbus, Ohio Construction and Material Specifications, latest edition and will become part of the terms and conditions of the contract to be awarded. Said specification are hereby made a part of these Bid Submittal Documents. Bidders are required to examine Section 100, General Provisions, for the requirements necessary to submit a proposal. Copies of said Construction and Materials Specifications may be examined and/or purchased at the office of the Director of Public Service, 90 West Broad Street, Room 301, Columbus, Ohio 43215, (614) 645-8290, at the office of the Transportation Division, 1800 East 17th Avenue, Columbus, Ohio 43219, (614) 645-3182, at the Director of Public Utilities, 910 Dublin Road, 4th Floor, Columbus, Ohio 43215, (614) 645-6141.

**CONTRACT COMPLIANCE REQUIREMENTS AND EQUAL OPPORTUNITY CLAUSE**

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification. Any questions or inquiries concerning this should be directed to the Equal Business Opportunity Commission Office.

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**BID CANCELLATION AND REJECTIONS**

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**SPECIAL REQUIREMENTS**

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ORIGINAL PUBLISHING DATE: June 19, 2004

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BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SA001194 - FMD - SKYWALKS - RENOV. CCTV, VIDEO

ADVERTISEMENT FOR BIDS

RENOVATION OF THE CLOSED CIRCUIT TELEVISION, DIGITAL VIDEO RECORDING AND "CALL FOR ASSISTANCE" UPGRADES AT THE SKYWALKS, 300 NORTH HIGH STREET

Sealed bids will be received by the Department of Public Service, Division of Facilities Management of the City of Columbus, Ohio at their office, located at 90 West Broad Street, basement, Room B16, Columbus, Ohio 43215 until 3:00 p.m. local time, and publicly opened and read at the hour and place on Tuesday, July 13, 2004 for RENOVATION OF THE CLOSED CIRCUIT TELEVISION, DIGITAL VIDEO RECORDING AND "CALL FOR ASSISTANCE" UPGRADES AT THE SKYWALK, 300 NORTH HIGH STREET. The work for which bids are invited consist of renovation of the closed circuit t.v.'s , digital video and call for assistance boxes at the skywalks.

Copies of the Contract Documents are available in the office of Facilities Management, 90 West Broad Street, Basement Level, Room B16, Columbus, Ohio 43215 beginning Monday, June 28, 2004. The first set of contract documents are available to prospective bidders at no cost. Additional sets are available to prospective bidders at a non-refundable cost of \$25.00 for each set.

Proposals must be submitted on the proper forms contained in the Bid Documents and the Bid Documents containing the Proposals must be submitted IN THEIR ENTIRETY in a sealed envelopment marked: Bid for: RENOVATION OF THE CLOSED CIRCUIT TELEVISION, DIGITAL VIDEO RECORDING AND "CALL FOR ASSISTANCE" UPGRADES AT THE SKYWALK, 300 NORTH HIGH STREET.

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CONTRACT PERFORMANCE AND PAYMENT BOND

A contract performance and payment bond of 100 percent of the amount of the contract with a surety or

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**BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS**

sureties licensed to conduct business in the State of Ohio according to Section 103.05 of the City of Columbus Construction and Materials Specifications, latest edition, will be required to assure the faithful performance of the work.

**PRE-BID MEETING**

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**CONTRACT COMPLIANCE REQUIREMENTS AND EQUAL OPPORTUNITY CLAUSE**

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification. Any questions or inquiries concerning this should be directed to the Equal Business Opportunity Commission Office.

The City of Columbus encourages the participation of Minority and female owned business enterprises. Each bidder must identify any subcontractor(s) who are minority or female owned businesses (M/FBE's) as defined in Title 39 of the Columbus City Code along with the scope of work and anticipated cost.\* This information is gathered and monitored by the Equal Business Opportunity Commission Office (EBOCO). Please contact EBOCO (614) 645-4764 for assistance with identifying potential M/FBE subcontractors. Equal Business Opportunity Commission Office, 109 N. Front Street 4th Floor, Columbus, Ohio 43215, (614) 645-4764.

\*While the participation of minority and female owned businesses is encouraged the level of minority or female participation will not be a condition of the bid award.

**BID CANCELLATION AND REJECTIONS**

The right is reserved by the Director of Public Service of the City of Columbus, Ohio to cancel the Advertisement for Bids, to reject any and/or all bids, to waive technicalities, or to advertise for new proposals, when it is in the best interest of the City. Also, the right is reserved by the Public Service Director to hold bids for a period of 180 days after the bid opening for evaluating both the proposals and the contractors. The award of the contract may be made at any time during that period.



THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SPECIAL REQUIREMENTS

Particular attention is called to the statutory requirements of the State of Ohio relative to licensing of corporations organized under laws of any other state.

ORIGINAL PUBLISHING DATE: June 19, 2004

BID OPENING DATE - July 14, 2004 3:00 pm

SA001167 - Screened Material Aeration System

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

ADVERTISEMENT FOR BIDS

Sealed proposals will be received by the Director of Public Utilities of the City of Columbus, Ohio at the office of the Director of Public Utilities, 910 Dublin Road, Room 4105, until 3:00 P.M., local Time, on WEDNESDAY JULY 14, 2004 and publicly opened and read at that hour and place for the following project:

CITY OF COLUMBUS  
DIVISION OF SEWERAGE AND DRAINAGE  
SOUTHWESTERLY COMPOST FACILITY  
SCREENED MATERIAL AERATION SYSTEM  
PROJECT PIP 803

The work for which proposals are invited consists of, but is not limited to, the installation of the electrical equipment necessary to the operation of the Compost Facility Screened Material Aeration System. The system will service screened material in the storage shelter, screening area, and in several outdoor piles. The installation will be at the Southwesterly Compost Facility, 7000 Jackson Pike, Lockbourne Ohio 43137. The lead project manager is Mr. Robert Smith, PE at (614) 645-0309.

PRE-BID CONFERENCE

A pre-bid conference for this project will be held on WEDNESDAY JUNE 23, 2004 at 10:00 a.m. (EST) in the administration building conference room, at the Compost Facility, 7000 Jackson Pike, Lockbourne Ohio 43173.

The work will include, but not be limited to:

- 1 Clean up, repair and testing of (28) existing 2 HP, 208V - 1 PH blower control panels, motors and stands.
- 2 Clean up, repair, modification and testing of (2) existing 208/-120V-1 PH , 6-motor, drive panels.
- 3 Provision and installation of (2) transformer mounting racks. One (1) rack with 4 new 15 KVA transformers. One rack with 2 existing 15 KVA transformers.
- 4 Provision and installation of (1) 460V-3 Ph-60 Hz Power Distribution Panel.
- 5 Provision and installation of (1) 208Y-120V-60 Hz Power Distribution Panel.
- 6 Provision of (1) tap (power distribution) panel.
- 7 Provision and installation of the electrical equipment, conduit, wiring and fittings necessary to the installation and operation of the Screened Material Aeration System.

Refer to the Scope of Work, specifications and drawings included in the Bid Submittal Documents, for details.

Each of the Sections in the Scope of Work can be bid separately or in combination with others. An

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

individual cost shall be required for each Section under consideration and for each item therein

CONTRACT DOCUMENTS: Copies of the Contract Documents are on file and can be picked up at no cost at the offices of the Division of Sewerage and Drainage, Fiscal Office 910 Dublin Road, 4th floor, Room 4164, Columbus, Ohio, 43215 from 7:30 a.m. to 4:30 p.m. (Mon-Fri), or by calling (614) 645-6031 or (614) 645-5919.

FURTHER INFORMATION: Questions regarding the specific technical elements of the project should be directed to Mr. Robert Smith, PE at (614) 645-0309.

Proposals must be submitted on the proper forms contained in the Bid Submittal Documents. The Bid Submittal Documents must be submitted, IN THEIR ENTIRETY, in a sealed envelope marked:

Bid for

SOUTHWESTERLY COMPOST FACILITY  
SCREENED MATERIAL AERATION SYSTEM  
PROJECT PIP 803

Any unauthorized conditions, limitations, or provisions attached to the Bid Submittal Documents may render a bid non-responsive and result in its rejection. Bidders are invited to be present at the Bid Opening.

PROPOSAL GUARANTY

The bidder is required to submit a Proposal Guaranty, consisting of either a Proposal bond, in the form provided in the Bid Submittal Documents with a surety or sureties licensed to conduct business in the State of Ohio, or a certified check drawn on a solvent bank made payable to the Treasurer - City of Columbus, Ohio. The amount of the guaranty shall not be less than ten (10) percent of the bid including all alternates submitted which increase the bid. All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

PREVAILING WAGE RATE

Attention of the bidder is called to the special requirements which are included in the Bid Submittal Documents regarding prevailing rates of wages to be paid.

CONTRACT PERFORMANCE AND PAYMENT BOND

A contract performance and payment bond of 100 percent (100%) of the amount of the contract with a surety or sureties licensed to conduct business in the State of Ohio according to Section 103.05 of the City of Columbus Construction & Materials Specifications, latest edition, will be required to assure the faithful performance of the work.

CONSTRUCTION AND MATERIAL SPECIFICATIONS

Numbered paragraphs to which reference is made in these Bid Submittal Documents refer to the City of Columbus, Ohio Construction and Materials Specifications, latest edition and will become part of the terms and conditions of the contract to be awarded. Said specifications are hereby made a part of these Bid Submittal Documents. Bidders are required to examine Section 100, General Provisions, for the requirements necessary to submit a proposal. Copies of said Construction and Material Specifications may be examined and/or purchased at the office of the Director of Public Service, 90 W. Broad St., 3rd Floor,

**THE CITY BULLETIN**  
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Columbus, Ohio 43215 (614) 645-8290, at the offices of The Construction Inspection Division, 1800 E. 17th Avenue, Columbus, Ohio 43219 (614) 645-3182, and at the office of the Director of Public Utilities, 910 Dublin Rd., 4th Floor, Columbus, Ohio 43215 (614) 645-6141.

**CONTRACT COMPLIANCE REQUIREMENTS**

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification. Compliance with the provisions of Article I, Title 39, as defined in the Columbus City Code 3901.01, is a condition of this contract. Failure or refusal of a contractor or subcontractor to comply with this Article may result in the cancellation of the Contract. Applications for the Columbus Contract Compliance Certification Number can be obtained by calling (614) 645-4764 or downloaded from the city web site [ci.columbus.oh.us](http://ci.columbus.oh.us).

**BID CANCELLATION AND REJECTIONS**

The right is reserved by the Director of Public Utilities of the City of Columbus, Ohio to cancel the Advertisement for Bids, to reject any and/or all bids, to waive technicalities, to hold bids for a period of 180 days after the bid opening, and/or to advertise for new proposals, when it is in the best interests of the City.

**CREDITABLE FACTORS**

In determining the lowest bid for purposes of awarding a contract, the creditable factors, noted in the TIER II section of the proposal forms shall apply.

**SPECIAL REQUIREMENTS**

Particular attention is called to the statutory requirements of the State of Ohio relative to licensing of corporations organized under the laws of any other state.

**SUBSURFACE DATA**

Subsurface data was not obtained for project design purposes. If obtained, copies of the report are available upon execution of the subsurface information release form.

**CONTRACT COMPLETION**

The contract completion time is 90 calendar days after the date of notice to proceed.

**EQUAL OPPORTUNITY CLAUSE:**

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment up-grading, demotion, or termination; rates of pay or other forms of compensation; and selection for training. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provision of this Equal Opportunity Clause.

(2) The contractor will, in all solicitations of advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal-opportunity employer.

(3) It is the policy of the City of Columbus that business concerns owned and operated by minority and

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female persons shall have the maximum practicable opportunity to participate in the performance of contracts awarded by the City..

(4) The contractor shall permit access to any relevant and pertinent reports and documents by the Executive Director for the sole purpose of verifying compliance with this Article, and with the regulations of the Contract Compliance Office. All such materials provided to the Executive Director by the contractor shall be considered confidential.

(5) The contractor will not obstruct or hinder the Executive Director or his deputies, staff and assistants in the fulfillment of the duties and responsibilities imposed by Article I, Title 39.

(6) The contractor and each subcontractor will include a summary of this Equal Opportunity Clause in every subcontract. The contractor will take such action with respect to any subcontractor as is necessary as a means of enforcing the provisions of the Equal Opportunity Clause.

(7) The contractor agrees to refrain from subcontracting any part of this contract or contract modification thereto to a contractor not holding a valid certification number as provided for in Article I, Title 39.

(8) Failure or refusal of a contractor or subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this contract. (Ord. 1178-95.)

Cheryl Roberto,  
Director of the Department of Public Utilities, City of Columbus, Ohio  
ORIGINAL PUBLISHING DATE: June 03, 2004

SA001188 - STREET LIGHTING IMP. - BERWYN EAST

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

Sealed proposals will be received by the Director of Public Utilities of the City of Columbus, Ohio at the office of the Director of Public Utilities, 910 Dublin Road, 4th Floor, Columbus, Ohio 43215, until 3:00 p.m. local time, on July 14, 2004 and publicly opened and read at the hour and place for Street Lighting Improvements for Berwyn-East. The work for which proposals are invited consists of furnishing all labor, material and equipment for Street Lighting Improvements for Berwyn-East and such other work as may be necessary to complete the contract in accordance with the plans and specifications. Copies of the Contract Documents and the plans are on file and are available to prospective bidders through the office of the Division of Electricity, 3500 Indianola Ave., Columbus, Ohio 43214, upon payment of \$20.00 per set (non-refundable). Proposals must be submitted on the proper forms contained in the Bid Submittal Documents and the Bid Submittal Documents containing the Proposal must be submitted IN THEIR ENTIRETY in a sealed envelope marked Street Lighting Improvements for Berwyn-East

**PROPOSAL GUARANTY**

No Proposal will be considered unless accompanied by a bond or certified check drawn on a solvent bank made payable to the City of Columbus, Ohio in an amount not less than ten percent of the Bidder's Proposal, conditioned upon execution of the Contract and furnishing of a performance and payment bond in the event the Contract is awarded to the Bidder. The amount indicated in the Proposal Bond shall be expressed as dollars and cents and not as a percent of the bid or alternate bids and shall equal or exceed ten (10) percent of the bid or highest bid submitted.

**PREVAILING WAGE RATE**

Attention of the bidder is called to the special requirements which are included in the Bid Submittal Documents regarding prevailing rates of wages to be paid.

**CONTRACT PERFORMANCE AND PAYMENT BOND**

A contract performance and payment bond of 100 percent of the amount of the contract with a surety or sureties licensed to conduct business in the State of Ohio according to Section 103.05 of the City of Columbus Construction & Materials Specifications, latest edition, will be required to assure the faithful performance of the work.

**CONSTRUCTION AND MATERIAL SPECIFICATIONS**

Numbered paragraphs to which reference is made in these Bid Submittal Documents refer to the City of Columbus, Ohio Construction and Materials Specifications, latest edition and will become part of the terms and conditions of the contract to be awarded. Said specifications are hereby made a part of these Bid Submittal Documents. Bidders are required to examine Section 100, General Provisions, for the requirements necessary to submit a proposal. Copies of said Construction and Material Specifications may be examined and/or purchased at the office of the Director of Public Service, 90 W. Broad St., 3rd Floor, Columbus, Ohio 43215 (614) 645-8290, and at the offices of The Construction Inspection Section of the Transportation Division, 1800 E. 17th Avenue, Columbus, Ohio 43219 (614) 645-3182.

**CONTRACT COMPLIANCE REQUIREMENTS**

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification.

**BID CANCELLATION AND REJECTIONS**

The right is reserved by the Director of Public Utilities of the City of Columbus, Ohio to cancel the Advertisement for Bids, to reject any and/or all bids, to waive technicalities, to hold bids for a period of 120 days after the bid opening, and/ or to advertise for new proposals, when it is in the best interests of the City.

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SPECIAL REQUIREMENTS

Particular attention is called to the statutory requirements of the State of Ohio relative to licensing of corporations organized under the laws of any other state.

CHERYL ROBERTO  
PUBLIC UTILITIES DIRECTOR

CITY BULLETIN DATES

- 1) June 26, 2004
- 2) July 3, 2004

BID PACKAGES WILL BE AVAILABLE FOR PURCHASE, MONDAY JUNE 28, 2004  
ORIGINAL PUBLISHING DATE: June 17, 2004

BID OPENING DATE - July 15, 2004 11:00 am

SA001186 - TRANSPORTATION/AERIAL BUCKET TRUCK

1.1 Scope: It is the intent of the City of Columbus, Transportation Division to obtain formal bids to establish a contract for the purchase of an Aerial Truck for use in the repair and installation of fiber optic cable.

1.2 Classification: The successful vendor shall be responsible for building and delivering a complete Aerial Truck to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 17, 2004

SA001190 - DOE/PANEL VANS

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

1.1 Scope: It is the intent of the City of Columbus, Division of Electricity to obtain formal bids to establish a formal purchase order for the purchase of 2 each, fourteen-foot aluminum step cargo vans for use in maintaining the street lighting and electrical system within the City of Columbus.

1.2 Classification: Pricing shall be based on unit pricing. There is a local vendor component to this bid.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 18, 2004

SA001195 - TRANSPORTATION/3 WHEEL SWEEPERS w/TRADE

1.1 Scope: It is the intent of the City of Columbus, Transportation Division to obtain formal bids to establish a contract for the purchase of 3-Wheel Sweepers for use in the street sweeping operations.

1.2 Classification: The successful vendor shall be responsible for building and delivering a complete 3-Wheel Sweeper to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 22, 2004

SA001196 - DOSD/COUNTER BALANCED STAND UP RIDER

1.1 Scope: It is the intent of the City of Columbus, Sewerage and Drainage Division to obtain formal bids for the purchase of Stand-Up Counterbalanced Rider with a load capacity of 2750 pounds with side shifter. The counterbalanced Rider will be used in the Sewer Maintenance Operations Center Stockroom. This bid shall include a trade in allowance for a crown Model 40WBTF stacker.

1.2 Classification: All parts not specifically mentioned, which are necessary to provide a complete unit, shall be included in the bid and conform in strength and quality of material and workmanship to what is usually provided to the trade in general. The equipment offered shall be new and a current model under standard production by the manufacturer.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 22, 2004



THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SA001199 - Water Quality Profiling Platform System

1.0 SCOPE AND CLASSIFICATION

1.1 Scope: The City of Columbus, Division of Water, is obtaining bids to establish a contract for the purchase of a complete Water Quality Profiling Platform system. The instrument shall be delivered to 910 Dublin Road, Columbus, Ohio 43215 and installed at the Hap Cremean Water Plant and Hoover Reservoir upon execution of the contract.

1.2 Classification: The contractor will be responsible for supplying a YSI Variable Depth Fixed Water Profiler including: a YSI 6600 EDS datasonde capable of real time data display, radio telemetry system, software, software licenses, and base station data logger (Notebook computer). The contractor will also be responsible for supplying 2- YSI 6600EDS datasondes, a radio telemetry system and all necessary cables for communication at the Hap Cremean Water Plant intake. The contractor will provide product installation at two locations and training including: software interface and functional confirmation.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215.

ORIGINAL PUBLISHING DATE: June 23, 2004

BID OPENING DATE - July 22, 2004 11:00 am

SA001151 - WATER LEAK DETECTION SYSTEM

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

1.1. Scope: The City of Columbus Division of Water intends to purchase upgrades to its Fluid Conservation System water leak detection system. The system owned by the Division of Water is a TriCorr 2001 leak correlation system. The intent is to upgrade to an AccuCorr3000 Digital Leak Correlation system.

1.2. Classification: The City seeks bids for the following equipment and service:

1.2.1. AccuCorr 3000 leak noise detection system that includes

1.2.2. Permalog Leak Noise Logger, quantity of 15

1.2.3. Permalog Patroller Unit

1.2.4. 16 hours of training for 6 city employees. Training is to be 2 days, 8 hours per day for a total of 16 hours.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

JDB/GLM

ORIGINAL PUBLISHING DATE: June 30, 2004

SA001198 - TRANSPORTATION/54' AERIAL BUCKET TRUCK

1.1 Scope: It is the intent of the City of Columbus, Transportation Division, to obtain formal bids to establish a contract for the purchase of two 54' Aerial Trucks for use by Traffic Operations Section.

1.2 1.2 Classification: The successful vendor shall be responsible for building and delivering the two 54' Aerial Trucks to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 23, 2004

SA001201 - DOW-TAG TRAILER

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

1.1 Scope: It is the intent of the City of Columbus, Division of Water to obtain formal bids to establish a contract for the purchase of a tag trailer for use by Distribution to transport heavy equipment through the City during all hours of the day as needed.

1.2 Classification: This is a formal bid to be bid through the City of Columbus' Purchasing Department. There is a Local vendor component to this bid.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 24, 2004

SA001202 - TRANSPORTATION/PAVEMENT GRINDER

1.1 Scope: It is the intent of the City of Columbus, Transportation Division to obtain formal bids to establish a contract for the purchase of a Pavement Grinder with Trailer for use in the repair and maintenance of streets and alleys.

1.2 Classification: The successful vendor shall be responsible for building and delivering a complete Pavement Grinder with Trailer to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 25, 2004

BID OPENING DATE - July 27, 2004 11:00 am

SA001204 - CRPD ASPHALT PAVEMENT RENOVATION 2004

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

ADVERTISEMENT FOR BIDS

Sealed proposals will be received by the Recreation and Parks Commission of the City of Columbus, Ohio, at its office at 200 Greenlawn Ave., until 11:00 a.m. on Tuesday, July 27, 2004, and publicly opened and read immediately thereafter for:

ASPHALT PAVEMENT RENOVATION 2004

The work for which proposals are invited consists of asphalt removal, asphalt patch, crackfill and overlay, asphalt paving, striping, landscaping, fine-grading and seeding and other such work as may be necessary to complete the contract in accordance with the plans and specifications.

Copies of the Project Manual/Specifications and the plans are on file and available to prospective bidders starting July 6 at Recreation and Parks Department Office at 200 Greenlawn Avenue, Columbus, Ohio 43223 (614) 645-3308 upon a non-refundable payment of \$25.00 per package made out to Columbus City Treasurer.

Proposals must be submitted on the proper forms contained in the Project Manual/Specifications and the ENTIRE Project Manual/ Specifications containing the Proposal must be submitted in a sealed envelope marked "Asphalt Pavement Renovations."

PROPOSAL GUARANTY

The bidder is required to submit a Proposal Guaranty, consisting of either a proposal bond, in the form provided in the Bid Submittal Documents with a surety or sureties licensed to conduct business in the State of Ohio, or a certified check drawn on a solvent bank made payable to the Treasurer - City of Columbus, Ohio. The amount of the guaranty shall be expressed in dollars and cents and shall not be less than ten (10) percent of the bid, including all alternates submitted which increase the bid. A certified copy of the authority to act must accompany all bonds signed by an agent.

PREVAILING WAGE RATE

Attention of the bidder is called to the special requirements included in the Bid Submittal Documents regarding prevailing rates of wages to be paid.

CONTRACT PERFORMANCE AND PAYMENT BOND

A contract performance and payment bond of 100 percent of the amount of the contract will be required to assure the faithful performance of the work. Bonds shall be with a surety or sureties licensed to conduct business in the State of Ohio, according to Section 103.5 of the City of Columbus Construction and Materials Specifications, latest edition.

CONSTRUCTION AND MATERIAL SPECIFICATIONS

Numbered paragraphs to which reference is made in these Bid Submittal Documents refer to the City of Columbus, Ohio Construction and Materials Specifications, latest edition and will become part of the terms and conditions of the contract to be awarded. Said specifications are hereby made a part of these Bid Submittal Documents. Bidders are required to examine Section 100, General Provisions, for the requirements necessary to submit a proposal. Copies of the Construction and Material Specifications may

**THE CITY BULLETIN**  
**BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS**

be examined and/or purchased at the office of the Director of Public Service, 90 W. Broad St., Room 301, Columbus, Ohio 43215 (614) 645-8290, at the offices of The Construction Inspection Division, 1800 E. 17th Avenue, Columbus, Ohio 43219 (614) 645-3182, and at the office of the Director of Public Utilities, 910 Dublin Rd., 4th Floor, Columbus, Ohio 43215 (614) 645-6141.

**CONTRACT COMPLIANCE REQUIREMENTS**

Each responsive bidder shall submit, with its bid, a City of Columbus Contract Compliance Certification Number or a completed application for certification. Any questions or inquiries concerning this should be directed to the Equal Business Opportunities Commission Office, 109 N. Front Street, 4th Floor, Columbus, Ohio 43215 (614) 645-4764.

**BID CANCELLATION AND REJECTIONS**

The right is reserved by the Executive Director of Recreation and Parks of the City of Columbus, Ohio to cancel the Advertisement for Bids, to reject any and/or all bids, to waive technicalities, and/or to advertise for new proposals, when it is in the best interests of the City.

**SPECIAL REQUIREMENTS**

Particular attention is called to the statutory requirements of the State of Ohio relative to licensing of corporations organized under the laws of any other state.

**OSHA/EPA/ADA REQUIREMENTS**

Contractors are subject to all applicable federal, state and local laws, ordinances, rules and regulations pertaining to services or products to be provided under this requirement.

Thomas L. Kaplin, President  
Recreation and Parks Commission

Wayne A. Roberts, Executive Director  
Recreation & Parks Department

**CITY BULLETIN DATES:**

- 1) July 3, 2004
- 2) July 10, 2004
- 3) July 17, 2004

ORIGINAL PUBLISHING DATE: June 30, 2004

**BID OPENING DATE - July 29, 2004 11:00 am**

THE CITY BULLETIN  
BIDS WANTED - PURCHASING OFFICE AND OTHER DIVISIONS

SA001203 - TRANSPORTATION/AERIAL SIGN TRUCK

1.1 Scope: It is the intent of the City of Columbus, Transportation Division to obtain formal bids to establish a contract for the purchase of an Aerial Bucket Truck for use in the installation and repair of traffic signals.

1.2 Classification: The successful vendor shall be responsible for building and delivering a complete 54-Foot Aerial Bucket Truck to the City of Columbus, Transportation Division.

If you have an interest in receiving this proposal, please FAX this form in its entirety to: Purchasing Office, (614) 645-7051 a complete copy of the specifications will be mailed to those who request the mailing and specifications are also available in person at 50 West Gay Street, Beacon Building - First Floor, Columbus, Ohio, 43215

ORIGINAL PUBLISHING DATE: June 29, 2004

# Public Notices

**City of Columbus  
City Bulletin Report**

Office of City Clerk  
90 West Broad Street  
Columbus OH 43215-9015  
columbuscitycouncil.org

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**Legislation Number:** PN0012-2004

**Drafting Date:** 04/07/2004

**Version:** 1

**Current Status:** Clerk's Office for Bulletin

**Matter Type:** Public Notice

**Title**

**Title:** Regular Monthly Business Meeting - Victorian Village Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The regular monthly business meetings for the Victorian Village Commission will take place on the following dates in 2004 from 12 noon - 1:00 P.M. at 109 N. Front Street, 1st Floor Conference Room. Copies of the agenda may be obtained by calling 645-8620. A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Neighborhood Services Division is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6407.

April 1

May 6

June 3

July 1

August 5

September 2

October 7

November 4

December 2

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**Legislation Number:** PN0013-2004

**Drafting Date:** 04/07/2004

**Version:** 1

**Current Status:** Clerk's Office for Bulletin

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Recreation & Parks Commission Meetings

**Contact Name:** Molly Wilkinson

**Contact Telephone Number:** 614-645-8430

**Contact Email Address:** [mewilkinson@columbus.gov](mailto:mewilkinson@columbus.gov)

**Body**

NOTICE OF REGULAR MEETINGS COLUMBUS RECREATION AND PARKS COMMISSION

The Recreation and Parks Commission, appointed and organized under the Charter of the City of Columbus, Section 112-1 is empowered to equip, operate, direct and maintain all the existing recreational and park facilities. In addition, said Commission exercises certain powers and duties as specified in Sections 112-1 and 112-2 of the Columbus City Charter.

Please take notice that meetings of the Recreation and Parks Commission will be held at 8:30 a.m. on the following dates



and locations (unless otherwise posted):

- o Wednesday, January 14, 2004 - Operations Complex, 420 W. Whittier Street, 43215
- o Wednesday, February 11, 2004 - Operations Complex, 420 W. Whittier Street, 43215
- o Wednesday, March 10, 2004 - Operations Complex, 420 W. Whittier Street, 43215
- o Wednesday, April 14, 2004 - Operations Complex, 420 W. Whittier Street, 43215
- o Wednesday, May 12, 2004 - Turnberry Golf Course, 1145 Clubhouse Road, Pickerington, 43247
- o Wednesday, June 9, 2004 - Beatty Recreation Center, 247 N. Ohio Avenue, 43203
- o Wednesday, July 14, 2004 - Gillie Recreation Center, 2100 Morse Road, 43229
- o August Recess - No meeting
- o Wednesday, September 8, 2004 - Indian Village Camp, 3200 Indian Village Drive 43221
- o Wednesday, October 13, 2004 - Antrim Shelterhouse, 5800 Olentangy River Road, 43085
- o Wednesday, November 10, 2004 - Operations Complex, 420 W. Whittier Street, 43215
- o Wednesday, December 8, 2004 - Operations Complex, 420 W. Whittier Street, 43215

In the event no proper business exists the meeting may be cancelled without further notice. For further information you may contact the Recreation and Parks Department 90 West Broad Street, Room 115, Columbus, Ohio 43215 (Telephone: [614] 645-3300).

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**Legislation Number:** PN0014-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Regular Monthly Business Meeting - Historic Resources Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The regular monthly business meeting of the Historic Resources Commission will be held on the following dates in 2004 from 12 noon - 1:00 P.M. AT 109 N. Front Street, 1st Floor Conference Room. Copies of the agenda may be obtained by calling 645-8620. A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Neighborhood Services Division is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6407.

April 8

May 13

June 10

July 8

August 12

September 9

October 14

November 11

December 9

**Legislation Number:** PN0015-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Regular Monthly Business Meeting - Italian Village Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The regular monthly business meeting of the Italian Village Commission will take place on the following dates in 2004 from 12 noon - 1:00 P.M., AT 109 N. Front Street, 1st Floor Conference Room. Copies of the agenda may be obtained by calling 645-8620. A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Neighborhood Services Division is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6407.

April 13

May 11

June 8

July 13

August 10

September 14

October 12

November 9

December 14

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**Legislation Number:** PN0016-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** 2004 MONTHLY MEETING SCHEDULE FOR THE VEHICLE FOR HIRE BOARD

**Contact Name:** Kimberlee A. Malone

**Contact Telephone Number:** (614) 645-8366

**Contact Email Address:** [kamalone@columbus.gov](mailto:kamalone@columbus.gov)

**Body**

The regular monthly meetings of the Columbus Vehicle for Hire Board will be scheduled for the last Thursday of every month at 10:00 a.m. The location of the meeting will be the License Section Conference Room B at 1555 Bryden Road, Columbus, OH 43205.

The Dates are as follows\*:

January 29, 2004

February 26, 2004

March 25, 2004

April 29, 2004

May 27, 2004

June 24, 2004

July 29, 2004  
August 26, 2004  
September 30, 2004  
October 28, 2004  
November 25, 2004 (Tentative)  
December 30, 2004 (Tentative)

The VFHB will use reasonable efforts to hold its meetings in conformity with this schedule, but the VFHB reserves the right to change the date, time, or location of any meeting; or to hold additional meetings.

\*To confirm meeting dates, please contact The License Section Office:

Telephone: (614) 645-8366  
Fax: (614) 645-8912

Vehicle For Hire Board  
c/o License Section  
1555 Bryden Rd.  
Columbus, Ohio 43205

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**Legislation Number:** PN0017-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** 2004 CALENDAR FOR THE COLUMBUS CHARITABLE SOLICITATIONS BOARD

**Contact Name:** LINDA YOUNG, RECORDING SECRETARY

**Contact Telephone Number:** (614) 645-7471 FAX: (614) 645-8912

**Contact Email Address:** [LKYOUNG@COLUMBUS.GOV](mailto:LKYOUNG@COLUMBUS.GOV)

**Body**

2004 CALENDAR FOR THE COLUMBUS CHARITABLE SOLICITATIONS BOARD

November 13, 2003  
December 11, 2003  
January 15, 2004  
February 19, 2004  
March 18, 2004  
April 15, 2004  
May 20, 2004  
June 17, 2004  
July 15, 2004  
August - NO MEETING  
September 16, 2004  
October 21, 2004  
November 11, 2004 (tentative)  
December 9, 2004 (tentative)

NOTICE: Meetings are scheduled for 10:00 a.m. in the License Section Conference Room B, 1555 Bryden Road, Columbus, OH 43205. Applications arriving less than 10 days prior to the scheduled meeting date will appear on the

following month's agenda. If you have any questions, please feel free to contact us. Additional information may be obtained by visiting our website at:

[www.publicsafety.ci.columbus.oh.us/license.htm](http://www.publicsafety.ci.columbus.oh.us/license.htm)

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**Legislation Number:** PN0018-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Regular Monthly Meeting - German Village Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The regular monthly business meetings for the German Village Commission will take place on the following dates in 2004 from 12 noon - 1:00 P.M., at 109 N. Front Street, 1st Floor Conference Room. Copies of the agenda may be obtained by calling 645-8620. A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Neighborhood Services Division is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6407.

March 30

April 27

May 25

June 29

July 27

Sept. 7

October 26

November 30

December 28

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**Legislation Number:** PN0019-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Meeting Notice - Victorian Village Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The 2004 regular meetings of the Victorian Village Commission will be held on the dates listed below at 6:15 p.m. at 109 N. Front Street in the first floor Community Training Center. Copies of the agenda may be obtained by calling 645-8620 or by e-mail [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov). A Sign Language Interpreter, to "Sign" this meeting, will be made available for

anyone with a need for this service, provided the Historic Preservation Office is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6802.

#### **Application Deadlines**

December 26, 2003  
January 29, 2004  
February 26, 2004  
March 25, 2004  
April 29, 2004  
May 27, 2004  
June 24, 2004  
July 29, 2004  
August 26, 2004  
September 30, 2004  
October 28, 2004  
November 26, 2004  
December 30, 2004

#### **Hearing Dates**

January 8, 2004  
February 12, 2004  
March 11, 2004  
April 8, 2004  
May 13, 2004  
June 10, 2004  
July 8, 2004  
August 12, 2004  
September 9, 2004  
October 14, 2004  
November 11, 2004  
December 9, 2004  
January 13, 2005

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**Legislation Number:** PN0020-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

#### **Title**

**Notice/Advertisement Title:** Meeting Notice - German Village Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

#### **Body**

The 2004 regular meetings of the German Village Commission will be held on the dates listed below at 4:00 p.m. at the German Village Meeting Haus, 588 S. Third Street. Copies of the agenda may be obtained by calling 645-8620 or by e-mail [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov). A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Historic Preservation Office is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6802.

#### **Application Deadlines**

December 23, 2003

January 20, 2004  
\*February 24, 2004  
March 23, 2004  
April 20, 2004  
May 18, 2004  
June 22, 2004  
July 20, 2004  
August 31, 2004  
September 21, 2004  
October 26, 2004  
November 23, 2004  
December 21, 2004

**Hearing Dates**

January 6, 2004  
February 3, 2004  
March 9, 2004  
April 6, 2004  
May 4, 2004  
June 1, 2004  
July 6, 2004  
August 3, 2004  
\*September 14, 2004  
October 5, 2004  
\*November 9, 2004  
December 7, 2004  
January 4, 2005

\*Moved to the second Tuesday of the month due to a holiday or election day.

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**Legislation Number:** PN0021-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Meeting Notice - Historic Resources Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The 2004 regular meetings of the Historic Resources Commission will be held on the dates listed below at 6:15 p.m. at 109 N. Front in the first floor Community Training Center. Copies of the agenda may be obtained by calling 645-8620 or by e-mail [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov). A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Historic Preservation Office is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6802.

**Application Deadlines**

January 2, 2004

February 5, 2004  
March 4, 2004  
April 1, 2004  
May 6, 2004  
June 3, 2004  
July 1, 2004  
August 5, 2004  
September 2, 2004  
October 7, 2004  
November 4, 2004  
December 2, 2004  
January 6, 2005

**Hearing Dates**

January 15, 2004  
February 19, 2004  
March 18, 2004  
April 15, 2004  
May 20, 2004  
June 17, 2004  
July 15, 2004  
August 19, 2004  
September 16, 2004  
October 21, 2004  
November 18, 2004  
December 16, 2004  
January 20, 2005

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**Legislation Number:** PN0022-2004

**Drafting Date:** 04/07/2004

**Version:** 1

**Current Status:** Clerk's Office for Bulletin

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Brewery District Commission

**Contact Name:** Brenda Moore

**Contact Telephone Number:** 614-645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The 2004 regular meetings of the Brewery District Commission will be held on the dates listed below at 6:15 p.m. at 109 N. Front in the first floor Community Training Center. Copies of the agenda may be obtained by calling 645-8620 or by e-mail [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov). A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Historic Preservation Office is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6802.

**Application Deadlines**

December 26, 2003  
January 22, 2004  
February 19, 2004  
March 18, 2004  
April 22, 2004  
May 20, 2004

June 17, 2004  
July 22, 2004  
August 19, 2004  
September 23, 2004  
October 21, 2004  
November 18, 2004  
December 23, 2004

**Hearing Dates**

January 8, 2004\*  
February 5, 2004  
March 4, 2004  
April 1, 2004  
May 6, 2004  
June 3, 2004  
July 1, 2004  
August 5, 2004  
September 2, 2004  
October 7, 2004  
November 4, 2004  
December 2, 2004  
January 6, 2005

\* Moved to the Second Thursday of the month due to a holiday

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**Legislation Number:** PN0023-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Meeting Notice - Italian Village Commission

**Contact Name:** Brenda G. Moore

**Contact Telephone Number:** 645-8620

**Contact Email Address:** [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov)

**Body**

The 2004 regular meetings of the Italian Village Commission will be held on the dates listed below at 6:15 p.m. at 109 N. Front in the first floor Community Training Center. Copies of the agenda may be obtained by calling 645-8620 or by e-mail [bgmoore@columbus.gov](mailto:bgmoore@columbus.gov). A Sign Language Interpreter, to "Sign" this meeting, will be made available for anyone with a need for this service, provided the Historic Preservation Office is made aware of this need and given a reasonable notice of at least forty-eight (48) hours prior to the scheduled meeting time. To schedule an interpreter, please call 645-8620 or TDD 645-6802. All completed Certificate of Appropriateness applications and required supporting materials must be received in the City of Columbus Historic Preservation Office, 109 N. Front Street, by the specified Application Deadlines in order to be placed on the corresponding Hearing Dates.

**Application Deadlines**

January 6, 2004  
February 3, 2004  
March 2, 2004  
April 6, 2004  
May 4, 2004



June 1, 2004  
July 6, 2004  
August 3, 2004  
September 7, 2004  
October 5, 2004  
November 2, 2004  
December 7, 2004  
January 4, 2005

**Hearing Dates**

January 20, 2004  
February 17, 2004  
March 16, 2004  
April 20, 2004  
May 18, 2004  
June 15, 2004  
July 20, 2004  
August 17, 2004  
September 21, 2004  
October 19, 2004  
November 16, 2004  
December 21, 2004  
January 18, 2005

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**Legislation Number:** PN0025-2004

**Drafting Date:** 04/07/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Meeting Notice - City of Columbus Records Commission

**Contact Name:** Thamie Freeze

**Contact Telephone Number:** 614-645-7293

**Contact Email Address:** [tjfreeze@columbus.gov](mailto:tjfreeze@columbus.gov)

**Body**

CITY BULLETIN NOTICE

MEETING SCHEDULE CITY OF COLUMBUS RECORDS COMMISSION

The regular meetings of the City of Columbus Records Commission for the calendar year 2004 are scheduled as follows:

Monday, February 2, 2004

Monday, May 10, 2004

Monday, September 27, 2004

These meetings will take place at: City Hall, 90 West Broad Street, 2nd Floor, Mayor's Conference Room. They will begin promptly at 10:00 am.

Every effort will be made to adhere to the above schedule, but the City of Columbus Records Commission reserves the right to change the date, time or location of any meeting; or to hold additional meetings. To confirm the meeting date, time and locations or to obtain agenda information, contact the Office of the City of Columbus Records Commission Coordinator at (614) 645-7293.

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**Legislation Number:** PN0083-2004

**Drafting Date:** 06/14/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title:** OFFICIAL NOTICE - CIVIL SERVICE COMMISSION

**Notice/Advertisement Title:** CIVIL SERVICE COMMISSION COMPETITIVE EXAMINATION ANNOUNCEMENTS

**Contact Name:** Lois Washnock

**Contact Telephone Number:** 614.645.7531

**Contact Email Address:** civil.service@columbus.gov

**Body**

APPLY ON-LINE 24 HOURS A DAY, 7 DAYS A WEEK OR APPLY IN PERSON 9:00 A.M. TO 4:00 P.M. MONDAY, WEDNESDAY OR THURSDAY.

The Civil Service Commission continuously administers competitive examinations. Information regarding examinations, for which the Civil Service Commission is currently accepting applications, is located on our website a [www.csc.columbus.gov](http://www.csc.columbus.gov) and is also posted at the Commission offices located at 50 West Gay Street, 6th Floor, Columbus, Ohio. Please note that all visitors to the Beacon Building are required to produce a picture ID, authenticating their identify, in order to visit the applications area. Applicants interested in City jobs should check our website or visit the Commission office.

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**Legislation Number:** PN0089-2004

**Drafting Date:** 06/28/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** NOTICE OF PROPOSED IMPROVEMENT AND ESTIMATED ASSESSMENTS TO BE LEVIED THEREFORE

**Contact Name:** Kim Taylor

**Contact Telephone Number:** 645-8623

**Contact Email Address:** ketaylor@columbus.gov

**Body**

As the result of petitions received in the Office of the City Clerk, City of Columbus, in July 2003, where upon over 60 percent of the property owners in the Madison Mills Subdivision, which includes; Marsha Drive, Wintercress Court, Millrace Road, Chaney Place, Barley Circle, Bonne Circle, Bayberry Circle, Briarbrush Drive, Briarbrush Court, Poppseed Court, Buggy Whip Lane, Miinlight Lane, Planters Court, Buckwheat Court, Plateau Street, Oldentime Court, Springtime Court, Wintertime Drive, Bartle Drive, Four Seasons Drive, Millview Drive, MILLview Court, Acres Drive, Thimbleberry Road, Greenery Drive, and Millstone Road from Williams Road to Millview Drive requested the installation of an underground street lighting system, you are hereby notified that the Council of the City of Columbus, Ohio by Resolution NO. 074X-2004, duly adopted at its meeting on April 19, 2004 and resolved that it is necessary to install underground ornamental street lighting in the Madison Mills Subdivision, as described above, under a special assessment improvement procedure, in accordance with the plans, specifications, and estimate cost of said improvement approved by the Administrator, Division of Electricity, and the Director of Public Utilities and on file in the office of said

Administrator, 3500 Indianola Avenue, and any additional information desired may be obtained from said office.

The aforesaid resolution also provides that street lights shall be installed as shown on the plans designated as Drawing No. 13E0196 of the files of the Administrator of the Division of Electricity of the Department of Public Utilities and provide that the whole cost of said improvement less than the Division of Electricity portion of \$112,000.00 shall be assess per lot.

The estimated amount of the assessment proposed to be levied against each lot or parcel of land is on file in the City Clerk's Office and the amount or amounts proposed to be levied against the lots or parcels of land standing in your name are as follows: **G W PITTMAN**, 4066 Acres Dr., Parcel #530-183886, in the amount of \$1,450.00; **C HOYT & M W FLOWERS**, 1300 Della Pl., Parcel #530-183839, in the amount of \$1,450.00; **T L BYERS**, 4087 Acres Dr, Parcel #530-183841, in the amount of \$1,450.00; **D A OLSEN & D L ADKINS**, 4098 Acres Dr., Parcel # 530-183882, in the amount of \$1,450.00; **R & M NORDBERG**, 4099 Acres Dr., Parcel # 530-183843, in the amount of \$1,450.00; **J GAGE & K COSTIGAN-GAGE**, P.O. Box 534, Parcel #530-183879, in the amount of \$1,450.00; **S&H ENTERPRISES REHAB LTD**, 346 Lakeside Dr., Parcel #530-104473, in the amount of \$1,450.00; **J J GDULA JR & K A FULTON**, 3877 Barley Cir., Parcel #530-168953, in the amount of \$1,450.00; **M HICKS**, 3893 Barley Cir., Parcel #530-168951, in the amount of \$1,450.00; **M C & B J DONEGHY**, 3921 Barley Cir., Parcel #530-168948, in the amount of \$1,450.00; **M M SANDERS**, 3924 Barley Cir., Parcel #530-168962, in the amount of \$1,450.00; **D W GLASGOW**, 4113 Bartle Dr., Parcel #530-184045, in the amount of \$1,450.00; **D RAPONI**, 4120 Bartle Dr., Parcel #530-530-183924, in the amount of \$1,450.00; **J L & J P MANSFIELD III**, 4131 Bartle Dr., Parcel #530-184043, in the amount of \$1,450.00; **S M BOWMAN**, 4136 Bartle Dr., Parcel #530-183922, in the amount of \$1,450.00; **E S LAND**, 4139 Bartle Dr., Parcel #530-184042; **J & J M SHIPLEY**, 4144 Bartle Dr., Parcel #530-183921, in the amount of \$1,450.00; **G S JACKMAN**, 4147 Bartle Dr., Parcel #530-184041, in the amount of \$1,450.00; **C M A MILLER**, 4152 Bartle Dr., Parcel #530-183920, in the amount of \$1,450.00; **J E & K M KUSSMAUL**, 5736 Ebright Rd., Parcel #530-184039, in the amount of \$1,450.00; **BARTLES DRIVE PARTNERSHIP**, 4168 Bartle Dr., Parcel #530-183918, in the amount of \$1,450.00; **R S CALLAWAY**, 3887 Bayberry Cir., Parcel #530-168936, in the amount of \$1,450.00; **C E & B M MAYNARD**, 3913 Bayberry Cir., Parcel #530-168932, in the amount of \$1,450.00; **S POPE**, 2633 Briarbrush Ct., Parcel #530-179950, in the amount of \$1,450.00; **W R & M J HALL**, 3952 Briarbrush Dr., Parcel #530-179960, in the amount of \$1,450.00; **K L LUCAS**, 3968 Briarbrush Dr., Parcel #530-179964, in the amount of \$1,450.00; **D K & T A ROBERTS**, 3984 Briarbrush Dr., Parcel #530-179966, in the amount of \$1,450.00; **J DONOVAN**, 4035 Briarbrush Dr., Parcel #530-179929, in the amount of \$1,450.00; **D MCDOWELL**, 2658 Buckwheat Ct., Parcel #530-184006, in the amount of \$1,450.00; **D CALL**, 2661 Buckwheat Ct., Parcel #530-184008, in the amount of \$1,450.00; **M A HILLERICH**, 2669 Buckwheat Ct., Parcel #530-184009, in the amount of \$1,450.00; **C L PHILLIPS**, 2660 Buggywhip Ln., Parcel #530-179967, in the amount of \$1,450.00; **S M & A S DUNN**, 2665 Buggywhip Ln., Parcel #530-183996, in the amount of \$1,450.00; **J E RUEHLE**, 2689 Buggywhip Ln., Parcel #530-183999, in the amount of \$1,450.00; **R W CURRENS**, 2621 Four Seasons Dr., Parcel #530-183900; **R W CURRENS**, 2631 Four Seasons Dr., Parcel #530-184037, in the amount of \$1,450.00; **FOUR SEASONS LP**, 319 Delegate Dr., Parcel #530183908, in the amount of \$1,450.00; **BARTLES DRIVE PARTNERSHIP**, 2700 Four Seasons Dr., Parcel #530-183914, in the amount of \$1,450.00; **P D ARDREY**, 2709 Four Seasons Dr., Parcel #530-183910, in the amount of \$1,450.00; **J E & K M KUSSMAUL**, 2714 Four Seasons Dr., Parcel #530-183912, in the amount of \$1,450.00; **A C PALIZZI**, 4012 Greenery Dr., Parcel #530-183856, in the amount of \$1,450.00; **F M & S K NEWSOME**, 4017 Greenery Dr., Parcel #530-183862, in the amount of \$1,450.00; **C R BOGGS**, 4028 Greenery Dr., Parcel #530-183854, in the amount of \$1,450.00; **S K GRELL**, 4052 Greenery Dr., Parcel #530-183851, in the amount of \$1,450.00; **A & B BATCHEV**, 4066 Greenery Dr., Parcel #530-183849, in the amount of \$1,450.00; **R W CURRENS**, P.O. BOX 552, Parcel #530-183848, in the amount of \$1,450.00; **S D RISSLER**, 464 Court Reght Dr., Parcel #530-183846, in the amount of \$1,450.00; **S D RISSLER**, 4095 Greenery Dr., Parcel #530-183874, in the amount of \$1,450.00; **S D RISSLER**, 4100 Greenery Dr., Parcel #530-183845, in the amount of \$1,450.00; **T L DUNN**, 4121 Greenery Dr., Parcel #530-183878, in the amount of \$1,450.00; **G T JOHNSON**, 3887 Marsha Dr., Parcel #530-169912, in the amount of \$1,450.00; **R P & L K SISSON**, 3895 Marsha Dr., Parcel #530-169911, in the amount of \$1,450.00; **C L & D MARTINEZ**, 3904 Marsha Dr., Parcel #530-176486, in the amount of \$1,450.00; **A M HAMILTON & J A BOERNER JR**, 3919 Marsha Dr., Parcel #530-169908, in the amount of \$1,450.00; **W R HALL**, 3939 Marsha Dr., Parcel #530-169905, in the amount of \$1,450.00; **R J CLAWSON**, 3961 Marsha Dr., Parcel #530-169902, in the amount of \$1,450.00; **G BAILEY AFDT**, 3998 Marsha Dr., Parcel #530-176496, in the amount of \$1,450.00; **W A & C A POLK**, 2013 Roanoke Avenue, Parcel #530-179294, in the amount of \$1,450.00; **K F & T J BARTOK**, 2623 Millrace Rd., Parcel #530-179293, in the amount of \$1,450.00; **A B CORBETT**, 2648 Millrace Rd., Parcel #530-168946, in the amount of \$1,450.00; **R M WILSON**, 2683 Millrace Rd., Parcel

#530-179962, in the amount of \$1,450.00; **M CARTER SR**, 2743 Millrace Rd., Parcel #530-179285, in the amount of \$1,450.00; **S A WALTON**, 2809 Millrace Rd., Parcel #530-179277, in the amount of \$1,450.00; **C & J E MCVEY**, 3865 Millstone Rd., Parcel #530-205912, in the amount of \$1,450.00; **D D & W A NOBLE**, 3897 Millstone Rd., Parcel #530-205908, in the amount of \$1,450.00; **S G GBENPELLE**, 9449 Shawtee Tr., Parcel #530-205907, in the amount of \$1,450.00; **B J WELSH**, 1054 Hardesty Pl. W, Parcel #530-205905, in the amount of \$1,450.00; **B J WELSH**, 1054 Hardesty Pl. W., Parcel #530-205904, in the amount of \$1,450.00; **J M SMITH**, 6142 Henderson Way #B, Parcel #530-179914, in the amount of \$1,450.00; **S V & T S V CAO**, 3974 Millstone Rd., Parcel #530-179917, in the amount of \$1,450.00; **D M EJIKE**, 4006 Millstone Rd., Parcel #530-179921, in the amount of \$1,450.00; **INDEED LTD**, P.O. Box 852, Parcel #530-179987, in the amount of \$1,450.00; **F R & S O HUPP**, 3900 Saturn Rd., Parcel #530-179925, in the amount of \$1,450.00; **G E & L S CHAPMAN**, 2620 Millview Dr., Parcel #530-184024, in the amount of \$1,450.00; **T L COLEMAN**, 2660 Millview Rd., Parcel #530-184020, in the amount of \$1,450.00; **S L CONNER**, 2687 Millview Dr., Parcel #530-183925, in the amount of \$1,450.00; **B T WOOTEN III**, 2692 Millview Dr., Parcel #530-184016, in the amount of \$1,450.00; **J E GOODWIN**, 2704 Moonlight Ln., Parcel #530-183961, in the amount of \$1,450.00; **T L JAMES**, 2710 Moonlight Ln., Parcel #530-183960, in the amount of \$1,450.00; **S SNYDER & M WOOD**, 2716 Moonlight Ln., Parcel #530-183959, in the amount of \$1,450.00; **L R CHAPMAN**, 2748 2748 Moonlight Ln., Parcel #530-183954, in the amount of \$1,450.00; **F A & T J BOLEN**, 2770 Moonlight Ln., Parcel #530-183951, in the amount of \$1,450.00; **T F & J L CHAMBERS**, 4117 Oldentime Ct., Parcel #530-183927, in the amount of \$1,450.00; **T L EBERSBACH**, 4010 Planeters Ct., Parcel #530-183992, in the amount of \$1,450.00; **D E & S L ROOT**, 4034 Planters Ct., Parcel #530-183989, in the amount of \$1,450.00; **T C HUDNALL**, 4057 Plateau St., Parcel #530-183981, in the amount of \$1,450.00; **C A GAITER**, 4065 Plateau St., in the amount of \$1,450.00; **M D GOODEN**, 4080 Plateau St., Parcel #530-183939; in the amount of \$1,450.00; **L & R ROBEY**, 3966 Poppyseed Ct., Parcel #530-179938, in the amount of \$1,450.00; **J J MOUNT**, 3975 Poppyseed Ct., Parcel #530-179936, in the amount of \$1,450.00; **R F GOELLER**, P.O. Box 852, Parcel #530-179942, in the amount in \$1,450.00; **B BERRY**, P.O. Box 28014, Parcel #530-179943, in the amount of \$1,450.00; **T R & S L HUSCH**, 4016 Poppyseed Ct., Parcel #530-179945, in the amount of \$1,450.00; **B B & B J HOLLINS**, 4104 Springtime Ct., Parcel #530-184047, in the amount of \$1,450.00; **C A & B E NIERMAN JR**, 4128 Springtime Ct., Parcel #530-184050, in th amount of \$1,450.00; **C J & J L SMITH**, P.O. Box 148, Parcel #530-183859, in the amount of \$1,450.00; **E L MAYS**, 2510 Thimbleberry Rd., Parcel #530-205899, in the amount of \$1,450.00; **P J WARNER**, 3931 Wintercrest Ct., Parcel #530-169890, in the amount of \$1,450.00; **M E & S R OSBORNE**, 3947 Wintercress Ct., Parcel #530-169888, in the amount of \$1,450.00; **K A MARSHALL**, 3963 Wintercress Ct., Parcel #530-169886, in the amount of \$1,450.00; **R A WINNESTAFFER**, 3977 Wintercress Ct., Parcel #530-169884, in the amount of \$1,450.00; **E J COYER**, 3985 Wintercress Ct., Parcel #530-169883, in the amount of \$1,450.00; **S E & S R ABSTON**, 4074 Wintertime Dr., Parcel #530-184027, in the amount of \$1,450.00; **M I SHUMAN**, 4112 Wintertime Dr., Parcel #530-184031, in the amount of \$1,450.00; **G W ROMANS**, 2286 S Delaware Ct., Parcel #530-183893, in the amount of \$1,450.00.

The owner of any lot or parcel so to be assessed who objects to the amount of apportionment of such assessment shall file an objection, in writing, with the City Clerk within two (2) weeks from the date of the service of this notice, and any owner who fails to do so shall be deemed to have waived any objection to such assessment to the extent of the amount estimated.

Attention is directed to Section 727.18 of the Revised Code of Ohio, which provides as follows:

"An owner of a lot or of land bounding or abutting upon the proposed improvement, claiming that he will sustain damages by reason of the improvement, shall, within two (2) weeks after service of this notice, file a claim, in writing, with the Clerk of legislative authority, setting forth the amount of the damages claimed and a general description of the property with respect to which it is claimed such injury will accrue. An owner who fails to file such claim, shall be barred from filing a claim or receiving damages."

Information regarding the street lighting plans, or petition process may be obtained by calling Linda Scothorn, Street Light Engineering Coordinator, at 645-7295 or Duffy D. McSweeney, Engineering Associate III, at 645-2191 with the Division of Electricity.

PLEASE NOTE: The Board of Revision has very limited authority to recommend that an estimated assessment be changed. The Board IS authorized to consider issues such as a calculation error (for example, the front footage of the property to be assessed is inaccurate) or an invalid petition (for example, signatures on a petition are those of tenants rather than property owners). However, the Board IS NOT authorized to consider issues such as the property owner's ability to

afford the estimated assessment or the property owner's desire not to take part in the planned improvement.

Andrea Blevins  
City Clerk

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**Legislation Number:** PN0091-2004

**Drafting Date:** 06/29/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** Development Commission Zoning Meeting July Agenda

**Contact Name:** Shannon Pine

**Contact Telephone Number:** 614-645-2208

**Contact Email Address:** spine@columbus.gov

**Body**

AGENDA

DEVELOPMENT COMMISSION

ZONING MEETING

CITY OF COLUMBUS, OHIO

JULY 8, 2004

The Development Commission of the City of Columbus held a public hearing on the following applications on **THURSDAY, JULY 8, 2004**, beginning at **6:00 P.M.** at the **CITY OF COLUMBUS, I-71 NORTH COMPLEX** at 757 Carolyn Avenue, Columbus, OH 43224 in the lower level **HEARING ROOM**.

Further information may be obtained by visiting the City of Columbus Zoning Office website at:

**<http://td.ci.columbus.oh.us/Building%20Services/zoning-section.htm>**, or by calling the Building Services Division Zoning Information line at 645-7314.

THE FOLLOWING APPLICATIONS WILL BE HEARD ON THE 6:00 P.M. AGENDA:

1. APPLICATION: Z03-119

Location: 6698 EAST BROAD STREET (43215), being 30.73± acres located at the northeast corner of East Broad Street and Brice Road (010-165722)

Existing Zoning: M-2, Manufacturing District.

Request: CPD, Commercial Planned Development District.

Proposed Use: Detail commercial development.

Applicant(s):

Wal-Mart Stores, Inc.

c/o Jeffrey L. Brown, Atty.

Smith and Hale

37 West Broad Street

Columbus, Ohio 43215.

Property Owner(s):  
Columbus Corporate Center, Inc.  
191 W. Nationwide Blvd.  
Suite 200  
Columbus, Ohio 43215.

Planner:  
Shannon Pine  
645-2208  
spine@columbus.gov

2. APPLICATION: Z04-040

Location: 5667 RENNER ROAD (43228), being 56.7± acres located on the south side of Renner Road, ±460 feet east of Birchwood Drive (010-218969).

Existing Zoning: RR, Rural Residential, L-AR-12, Limited Apartment Residential, and L-C-4, Limited Commercial Districts.

Request: Neighborhood Edge and Neighborhood General Districts.

Proposed Use: Residential development.

Applicant(s):  
Linda Cebul and John Haueisen, Trustee  
c/o Jeffrey M. Lewis, Atty.  
10 West Broad Street, Suite 2400  
Columbus, Ohio 43215.

Property Owner(s): The Applicant.

Planner:  
Dana Hitt, AICP  
645-2395  
dahitt@columbus.gov

3. APPLICATION: Z04-029

Location: 5605 BOWEN ROAD (43110), being 17.98± acres located on the west side of Bowen Road, 125± feet north of Canal Highlands Boulevard (490-190833).

Existing Zoning: R, Rural District.

Request: L-R-2, Limited Residential District.

Proposed Use: Single-family residential development.

Applicant(s):  
Sovereign Development Corporation  
c/o Dave Perry, Agent  
The Dave Perry Company  
145 East Rich Street  
Columbus, Ohio 43215.

Property Owner(s):

Grant L. Lynd, Tr.  
c/o Dave Perry, Agent  
The Dave Perry Company  
145 East Rich Street  
Columbus, Ohio 43215.

Planner:  
Shannon Pine  
645-2208  
spine@columbus.gov

4. APPLICATION: Z02-107

Location: 5542 CHANTRY DRIVE (43232), being 11.20± acres located on the north and south sides of Chantry Drive, at the northeast corner of Park Crescent and Chantry Drive.

Existing Zoning: M-2, Manufacturing District.

Request: L-AR-12, Limited Apartment Residential District

Proposed Use: Multi-family residential development.

Applicant(s):  
National Church Residencies  
c/o Jeffrey L. Brown, Atty.  
37 West Broad Street, Suite 725  
Columbus, Ohio 43215.

Property Owner(s):  
Columbus Land Development Company  
250 E. Broad Street, Suite 1100  
Columbus, Ohio 43215.

Planner:  
Dana Hitt, AICP  
645-2395  
dahitt@columbus.gov

THE FOLLOWING APPLICATIONS WILL BE HEARD ON THE 7:00 P.M. AGENDA:

5. APPLICATION: Z04-044

Location: 1700 WALCUTT ROAD (43228), being 6.48± acres located the east side of Walcutt Road, 511± feet north of Transamerica Drive (560-154575).

Existing Zoning: R, Rural District.

Request: L-M, Limited manufacturing District.

Proposed Use: Industrial and office development.

Applicant(s):  
Stephen E. Schenz  
13930 Hinton Mill Road  
Marysville, Ohio 43040.

Property Owner(s): The Applicant.

Planner:  
Shannon Pine  
645-2208  
spine@columbus.gov

6. APPLICATION: Z04-048

Location: 3790 MORSE ROAD (43219), being 12.77± acres located on the northeast corner of Morse and Sunbury Roads (010-213794).

Existing Zoning: R, Rural District.

Request: CPD, Commercial Planned Development District.

Proposed Use: Used automobile sales.

Applicant(s):  
CarMax Auto Superstores, Inc  
c/o George McCue and Michael Shannon, Attys.  
Crabbe, Brown & James, LLP  
500 South Front Street, Suite 1200  
Columbus, Ohio 43215

Property Owner(s):  
Morno Holding Co.; c/o The Applicant.

Planner:  
Don Bier  
645-0712  
drbier@columbus.gov

7. APPLICATION: Z04-020

Location: 6261 MAPLE CANYON AVENUE (43229), being 8.08± acres located on the west side of Maple Canyon Avenue 99± feet north of Sprucefield Drive (010-147416).

Existing Zoning: R-1, Residential District.

Request: L-ARLD, Limited Apartment Residential District.

Proposed Use: Multi-family residential development.

Applicant(s):  
Preferred Real Estate Investments II, LLC  
c/o Jill S. Tangeman, Atty.  
600 South High Street  
Columbus, Ohio 43215.

Property Owner(s):  
Rick L. and Judy A. Haskett  
6261 Maple Canyon Avenue  
Columbus, Ohio 43229.

Planner:



Dana Hitt, AICP  
645-2395  
dahitt@columbus.gov

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**Legislation Number:** PN0092-2004

**Drafting Date:** 06/29/2004

**Version:** 1

**Current Status:** Clerk's Office for Bulletin

**Matter Type:** Public Notice

**Title:** CIVIL SERVICE COMMISSION NOTICE

**Notice/Advertisement Title:** CIVIL SERVICE COMMISSION PUBLIC NOTICE

**Contact Name:** Lois Washnock

**Contact Telephone Number:** 614-645-7531

**Contact Email Address:** civilservice@columbus.gov

**Body**

During its regular meeting held on Monday, June 28, 2004, the Civil Service Commission passed a motion to **revise the classification Development Planning Manager, retitle it to read Planning Manager** (Class Code 2012) and to amend Rule XI accordingly. There was no change in the noncompetitive examination type or the 365-day probationary period. The amendment will be effective upon publication.

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**Legislation Number:** PN0093-2004

**Drafting Date:** 06/30/2004

**Version:** 1

**Current Status:** Clerk's Office for Bulletin

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** City Council Zoning Agenda for 07/12/2004

**Contact Name:** Mugsy Reynolds, Deputy City Clerk

**Contact Telephone Number:** 614 645-8539

**Contact Email Address:** mmreynolds@columbus.gov

**Body**

**REGULAR MEETING NO. 41 OF CITY COUNCIL (ZONING), JULY 12, 2004 AT 6:30 P.M. IN COUNCIL CHAMBERS.**

**ROLL CALL**

**READING AND DISPOSAL OF THE JOURNAL**

**EMERGENCY, TABLED AND 2ND READING OF 30 DAY LEGISLATION**

**ZONING: MENTEL, CHR. BOYCE HABASH O'SHAUGHNESSY  
SENSENBRENNER TAVARES THOMAS**

**0936-2004** To rezone 9032 OLENBROOK DRIVE (43035), being 48.44± acres located

1700± feet east of U.S. 23 and 3440± feet north of Lazelle Road. From: R, Rural District. To: R-2, Residential District. (Rezoning # Z04-012)

**0980-2004** To grant a Variance from the provisions of Sections 3332.035, R-3, Residential District, 3342.28,(A)(5), Minimum number of parking spaces required of Columbus City Codes; for the property located at 166 SOUTH EIGHTEENTH STREET (43205), to permit a seven (7) unit dwelling in the R-3, Residential District with reduced development standards.

**0983-2004** To rezone 1850 NORTHWEST BOULEVARD (43212), being 1.84± acres located on the north side of Northwest Boulevard, 190± feet west of Independence Road, From: R, Rural District, To: AR-1, Apartment Residential District. (Rezoning # Z04-019)

**1024-2004** To grant a Variance from the provisions of Sections 3333.18, Building lines and 3333.24, Perimeter yard; of Columbus City Codes for the property located at 1850 NORTHWEST BOULEVARD (43212) to permit reduced yards and setbacks in the AR-1, Apartment Residential District, for a multi-family residential development. (Council Variance # CV04-018)

**1017-2004** To rezone 730 NORTH WILSON ROAD (43204), being 1.9± acres located on the east side of Wilson Road, 295± feet south of Enterprise Avenue, From: R, Rural District, To: L-C-4, Limited Commercial District. (Rezoning # Z3-106)

**1029-2004** To rezone 2146 HILLIARD-ROME ROAD (43026), being 0.81± acres located at the southeast corner of Hilliard-Rome Road and Nike Drive, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District (Z04-003).  
(TABLED 6/28/2004)

**1111-2004** To rezone 1151 WAGGONER ROAD (43004), 37.74± acres located on the west side of Waggoner Road, 280± feet north of Kennedy Road, From: R, Rural District, To: PUD-8, Planned Unit Development District. (Rezoning # Z04-013)

**1137-2004** To rezone 4592 SUNBURY ROAD (43219), being 3.08± acres located on the east side of Sunbury Road, 450+ feet north of Easton Way, From: L-M, Limited Manufacturing District, To: L-M, Limited Manufacturing District. (Rezoning # Z03-125)

**1142-2004** To grant a Variance from the provisions of Sections 3333.02, AR-12, ARLD and AR-1, Apartment residential district use; 3333.09, Area requirements; 3333.18, Building lines; 3333.22 Maximum side yard required; 3333.23, and Minimum side yard permitted; of the Columbus City Codes for the properties located at 1149 AND 1151 HUNTER AVENUE (43201), to permit single-family dwelling use with reduced development standards in the ARLD, Apartment Residential District. (Council Variance # CV04-017)

**1161-2004** To rezone 3333 CHIPPEWA STREET (43204), being 17.38± acres located at the terminus of Chippewa Street, From: L-I, Limited Institutional District, To: L-I, Limited Institutional District. (Rezoning # Z04-022)

**1250-2004** To grant a Variance from the provisions of Section 3356.03, C-4, Permitted Uses, for the property located at 1853 MARYLAND AVENUE (43219), to permit a single-family dwelling in the C-4, Commercial District.

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**Legislation Number:** PN0096-2004

**Drafting Date:** 06/30/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**

**Notice/Advertisement Title:** July 2004 Public Utilities Committee Meeting/Hearing

**Contact Name:** Angela Mingo

**Contact Telephone Number:** 614-645-2537

**Contact Email Address:** ammingo@columbus.gov

**Body**

Columbus City Council Member Patsy A. Thomas, chair of City Council's Public Utilities and Refuse Committees, will convene a committee meeting on Wednesday, July 14th. There will be a presentation on the proposed changes to the "Nuisance Abatement Code." The proposed changes are an effort to enhance the City's response to the issue of vacant and abandoned houses and structures.

**When:**

Wednesday, July 14, 2004

**Where:**

City Council Chambers  
90 W. Broad Street  
Columbus, Ohio 43215

**Time:**

5:30 p.m.

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**Legislation Number:** PN0098-2004

**Drafting Date:** 07/01/2004

**Current Status:** Clerk's Office for Bulletin

**Version:** 1

**Matter Type:** Public Notice

**Title**Public Notice Department of Public Utilities --- Industrial Wastewater Discharge Permits

**Notice/Advertisement Title:** replace with non-bold public notice title

**Contact Name:**

Daniel L. Rossi

**Contact Telephone Number:**

614/645-0360

**Contact Email Address:**

dlr@smoc.cmhmetro.net

**Body**

The Administrator of the Division of Sewerage and Drainage announces intent to issue a wastewater discharge permit to the below listed companies on or about July 19, 2004. The Draft permits will be available for review at: City of Columbus Pretreatment Section, 1250 Fairwood Ave. Room 186, FAX (614) 645-0227 Columbus, Ohio 43206-3372 on weekdays between the hours of 7:30 a.m. to 4:30 a.m. beginning Monday July 5, 2004. The Administrator will accept written comments on the proposed Permits until 5:00 p.m. Sunday, July 11, 2004 at the above location. This Notice is made pursuant to specifications in the Columbus City Code, Section 1145.44(B). NAME, COMPANY and ADDRESS: Diamond Innovations, 6325 Huntley Rd, Worthington, OH 43085. Doctors Hospital West, 5100 West Broad Street, Columbus, OH 43228. Plaskolite Inc., 1770 Joyce Ave., Columbus, OH 43219. W.W. Ttransport Inc. 3269 Valley View,

Columbus, OH 43227.