

ORDINANCE NO. 20-099

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF URBAN RENEWAL REVENUE BONDS PURSUANT TO OHIO REVISED CODE SECTION 725.05(C), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,700,000, FOR THE PURPOSE OF PAYING COSTS OF CITY URBAN RENEWAL PROJECT ACTIVITIES IN THE BAYFRONT URBAN REVITALIZATION AREA, WHICH SUCH URBAN RENEWAL BONDS WILL ALSO BE CONSIDERED BONDS OF THE CITY UNDER SECTION 13, ARTICLE VIII OF THE OHIO CONSTITUTION TO PAY COSTS OF PROJECTS THAT CREATE OR PRESERVE JOBS AND EMPLOYMENT OPPORTUNITIES AND IMPROVE THE ECONOMIC WELFARE OF THE CITY AND ITS RESIDENTS AND THE STATE OF OHIO; PROVIDING FOR THE PLEDGE FOR THAT PURPOSE OF CERTAIN NONTAX REVENUES; ESTABLISHING CERTAIN FUNDS OF THE CITY; APPROVING RELATED DOCUMENTS AND DECLARING AN EMERGENCY.

WHEREAS, under the provisions of Article XVIII, Section 3 of the Ohio Constitution, and the Charter and the ordinances of the City of Sandusky (the "City"), the City is authorized to and the City has determined to undertake and carry out urban renewal project activities in designated areas of the City; and

WHEREAS, pursuant to Chapter 725 of the Ohio Revised Code (the "Act"), the City has the power to issue "urban renewal bonds" to pay costs of "urban renewal project activities" as such terms are defined in the Act; and

WHEREAS, the City Commission by Ordinance No. 00-179 passed on June 12, 2000, approved the Bayfront Urban Revitalization Plan for the Bayfront Urban Revitalization Area (the "Plan Area"), which plan subsequently has been amended pursuant to authorization by the City Commission (that plan as amended, the "Urban Renewal Plan"), which constitutes an urban renewal plan within the meaning and requirements of the Act, and which Urban Renewal Plan includes undertakings and activities by the City comprising an urban renewal project for the public purpose of elimination and prevention of recurrence of blight in the Plan Area; and

WHEREAS, in furtherance of carrying out the Urban Renewal Plan, the City and Mid-States Bayfront Development LLC (the "Developer") entered into a Development Agreement (as amended and supplemented, the "Development Agreement") to provide for redevelopment by the Developer of certain property in the Plan Area as identified therein, being the redevelopment of the Chesapeake building (the "Property"), and the construction of certain public improvements in the Plan Area; and

WHEREAS, the City Commission by Ordinance No. 16-177, passed on October 24, 2016, approved the Second Urban Renewal Plan for the Second Urban Renewal Area, which is adjacent to the Bayfront Urban Renewal Plan Area and constitutes an urban renewal plan within the meaning and requirements of the Act, and which Second Urban Renewal Plan includes undertakings and activities by the City comprising an urban renewal project for the public purpose of elimination and prevention of recurrence of blight in the Second Urban Renewal Plan Area; and

WHEREAS, pursuant to the Act, and particularly Section 725.05(A) of the Ohio Revised Code, and Ordinance No. 19-098 passed on May 29, 2019, the City issued its \$4,700,000 Urban Renewal Temporary Bond, Series 2019, dated August 1, 2019 and maturing on July 31, 2020, in anticipation of the issuance of definitive urban renewal bonds under the Act, for the purpose of paying costs of the Project described in Section 2 (the Outstanding Temporary Bond); and

WHEREAS, pursuant to the Act, and particularly Section 725.05(C) of the Ohio Revised Code, the City has determined to issue the Bonds described in Section 3, for the purpose of refunding and retiring the Outstanding Temporary Bond at its maturity and providing additional funds for the Project described in Section 2, all of which creates or preserves jobs and employment opportunities and improves the economic welfare of the City and its residents and of the State of Ohio; and

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

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WHEREAS, the Finance Director has certified that the estimated life or period of usefulness of the Project described in Section 2 is at least five years and that the maximum maturity of the Bonds is eighteen years; and

WHEREAS, an emergency exists in that, for the immediate preservation of the public peace, property, health and safety, it is necessary that this ordinance be immediately effective in order to issue and sell the Bonds in order to enable the City to timely retire the Outstanding Temporary Bonds and thereby preserve its credit and to finance and carry out the Project in furtherance of its public purpose of elimination and prevention of recurrence or spread of conditions of blight and deterioration in the Plan Area, and to further economic development in the City, and by reason thereof, this ordinance shall take effect forthwith upon its passage,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, that:

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

“Authorized Denominations” means one bond maturing no later than December 1, 2035, in the aggregate principal amount of the Bonds, with principal payable on each Principal Payment Date.

“Bond proceedings” means, collectively, this ordinance, the Certificate of Award and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

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

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

“Bonds” shall have the meaning set forth in Section 2.

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

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds, which date shall not be later than July 31, 2020.

“Interest Payment Dates” means March 1 and September 1 of each year that the Bonds are outstanding, or such other semiannual dates provided in the Certificate of Award, which Interest Payment Dates shall commence no later than March 1, 2021, as specified in the Certificate of Award.

“Nontax Revenues” means all money of the City that is not money raised by taxation, to the extent available for deposit in the Bond Fund as provided in this Ordinance, including, but not limited to the following: (a) grants from the United States of America and the State of Ohio; (b) payments in lieu of taxes now or hereafter authorized by State statute to the extent not pledged to pay debt charges on other City indebtedness; (c) fines and forfeitures that are deposited in the City’s General Fund; (d) fees deposited in the City’s General Fund from properly imposed licenses and permits; (e) investment earnings on the City’s General Fund and that are credited to the City’s General Fund; (f) investment earnings on other funds of the City that are credited to the City’s General Fund; (g) proceeds from the sale of assets that are deposited in the City’s General Fund; (h) rental income that is deposited in the City’s General Fund; and (i) gifts and donations.

“Nontax Revenue Proceeds Account” means the Nontax Revenue Proceeds Account established herein.

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

“Principal Payment Dates” means December 1 in each of the years from and including 2021 to and including 2035, or such other annual dates provided in

the Certificate of Award, which Principal Payment Dates shall commence no later than September 1, 2021 and shall end no later than September 1, 2035.

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

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This City Commission determines that it is necessary and in the best interest of the City to issue definitive urban renewal revenue bonds of this City in the maximum aggregate principal amount of \$7,700,000 (the "Bonds") to (i) retire the Outstanding Temporary Bonds, which were issued for the purpose of paying costs of carrying out City urban renewal project activities in the Second Urban Renewal Area in accordance with the Urban Renewal Plan and the Act, including without limitation direct and indirect costs of acquiring real property and any interests therein, preparing property for redevelopment, constructing improvements, including, without limitation, improvements to and around a pier, and related public infrastructure improvements and all necessary appurtenances, title, design, planning, engineering, consulting, professional and legal costs related thereto, and paying interest costs, to the extent permitted by the Act, and financing costs, as such term is defined in Section 133.01 of the Revised Code, related to issuing any urban renewal bonds, and (ii) the acquisition, construction, enlargement, improvement, or equipment of property, structures, equipment or facilities for industry, commerce, distribution, or research, and paying interest costs, to the extent permitted by the Act, and financing costs, as such term is defined in Section 133.01 of the Revised Code, related to issuing any urban renewal bonds (the

“Project”), and to pay additional costs of the Project. The City Commission hereby confirms its determination that the Project is in accordance with the Urban Renewal Plan and is a proper public purpose of the City and will improve the general welfare of the residents of the City, and that carrying out the Project is in furtherance of the purposes of the Act and is necessary to carry out for the elimination and prevention of the development or spread of blight and deterioration in furtherance of the Urban Renewal Plan, and is in furtherance of economic development of the City, and therefore will benefit the people of the City and of the State of Ohio. The Bonds shall be issued pursuant to Chapter 725 of the Ohio Revised Code, the Charter of the City, this ordinance and the Certificate of Award.

The aggregate principal amount of Bonds to be issued shall not exceed the maximum aggregate principal amount specified in this Section 2 and shall be an amount determined by the Finance Director in the Certificate of Award to be required to be issued at this time for the purpose stated in this Section 2, taking into account, among other things, the amount of Net Urban Revenue Service Payments received or to be received by the City (as defined in Section 7), the estimated costs of any additional Project to be undertaken by the City and the costs of issuance of the Bonds.

The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, any paying agent or bond registrar, and all other financing costs

and costs incurred incidental to those purposes. Any portion of those proceeds received by the City representing premium or accrued interest shall be paid into the Debt Retirement Fund defined in Section 7 hereof. The expenditure of the amounts necessary to pay any issuance and financing costs in connection with the Bonds is authorized and approved, and the Finance Director is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 3. Denominations; Dating; Principal and Interest Payments. The Bonds shall be issued in one lot and only as fully registered bonds, in the Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award.

(a) Interest Rates and Payment Dates. The Bonds shall bear the rate of interest per year (computed on the basis of a 360-day year consisting of twelve 30-day months), not to exceed 2.50% per year, as specified by the Finance Director in the Certificate of Award. Interest on the Bonds shall be payable at such rate on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature on the Principal Payment Dates in principal amounts as shall be determined by the Finance Director, subject to subsection (c) of this Section, in the Certificate of Award, which determination shall be consistent with the best interest of and financial advantages to the City.

(c) Conditions for Establishment of Principal Payment Dates and Amounts. The rate of interest per year to be borne by the Bonds, as specified by the Finance Director in the Certificate of Award, and the principal amount of Bonds maturing on each Principal Payment Date, as determined by the Finance Director in the Certificate of Award, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable and there are two semi-annual interest payments is not more than three times the amount of those payments in any other fiscal year.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent, by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the Ex-Officio Mayor and the Finance Director, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations, shall be numbered as determined by the Finance Director in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the Chapter 725 of the Ohio Revised Code, the Charter of the City, this ordinance and the Certificate of Award.

The Finance Director shall be the initial Bond Registrar unless the Finance Director designates a bank or trust company authorized to do business in the State

of Ohio to act as the initial Bond Registrar in the Certificate of Award. If such a bank or trust company is so designated, the Finance Director is hereby authorized to enter into any bond registrar or paying agent agreement he determines necessary or appropriate to provide for the transfer, exchange and payment on the Bonds. The Finance Director shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to such agreement, except to the extent paid or reimbursed by the Original Purchaser of the Bonds, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Finance Director on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

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

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its designated office. Subject to the provisions of Section 3(d), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on

account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar may, if requested by the owner, complete, authenticate and deliver a new Bond equal to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before

the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer.

(c) Book Entry System. The Bonds may be used in book entry or other uncertified form in accordance with Section 9.96 and Chapter 725 of the Revised Code if it is determined by the Finance Director that the issuance in such form will facilitate the sale and delivery of the Bonds.

Section 6. Sale of the Bonds to the Original Purchaser. The Finance Director is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 100% of the aggregate principal amount thereof, as shall be determined by the Finance Director in the Certificate of Award, plus accrued interest on the Bonds from their date to the Closing Date, and shall be awarded by the Finance Director, in accordance with law and the provisions of this ordinance and in accordance with his determination of the best interests of and financial advantages to the City and its taxpayers, taking into account conditions then existing in the financial markets, with and upon such other terms as are required or authorized by this ordinance to be specified in the Certificate of Award.

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

The Finance Director is hereby authorized to enter into a bond placement and/or purchase agreement or a term sheet with the Original Purchaser of the Bonds consistent with the terms of this ordinance if he

determines it is in the best interests of the City and is necessary or appropriate to provide for the sale of the Bonds. The Finance Director shall provide for any payment required for the placement or purchase of the bonds and for reimbursement of expenses incurred pursuant to such agreement or term sheet, except to the extent paid or reimbursed by the Original Purchaser of the Bonds, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

The Ex-Officio Mayor, the Finance Director, the Law Director, the Clerk of the City Commission and other City officials, as appropriate, each are authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

Section 7. Debt Retirement Fund. Pursuant to Ordinance No. 13-009, the City Commission has heretofore created and ordered maintained a separate fund of the City that constitutes an urban renewal debt retirement fund within the meaning of the Act (and particularly Sections 725.03 and 725.05 of the Ohio Revised Code), which is designated the "Urban Renewal Debt Retirement Fund" (the "Debt Retirement Fund"). There shall be deposited into the Debt Retirement Fund, as and when received, (a) the Net Urban Renewal Service Payments (as defined below); (b) any proceeds of the Temporary Bonds, the Definitive Bonds or any Additional Bonds (as defined in Section 9 below) (collectively, "Urban Renewal Bonds") which remain following the payment of all costs of the project to be paid therefrom; (c) the proceeds received from the sale of any Additional Bonds issued to refund any outstanding Urban Renewal Bonds issued under the Act; (d) any other "urban renewal service payments," as defined in the Act, that the City determines to deposit

in the Debt Retirement Fund; and (e) to the extent deposits described in (a) through (d) above are not sufficient to pay debt charges on the Bonds at any particular time, Nontax Revenues available and sufficient to pay debt charges on the Bonds shall be deposited into the Nontax Revenue Proceeds Account hereby created in the Debt Retirement Fund. As used herein, the term "Net Urban Renewal Service Payments" means "urban renewal service payments," as defined in the Act, required to be paid with respect to the "improvements," as defined in the Act, on the Property by the Developer and its successors and assigns to the Property or any part thereof pursuant to the Development Agreement and the Act, including, but not limited to the Chesapeake Revenues, and which are received by the City less the amount of such urban renewal service payments paid by the City to the Sandusky City School District pursuant to a Compensation Agreement entered into among the City, the Developer and the Sandusky City School District on November 24, 2004, as amended and supplemented, most recently by the Second Supplement to Compensation Agreement, dated as of February 14, 2017, all in connection with the Development Agreement.

Section 8. Security for Bonds. The Bonds shall be special obligations of the City, and the payment of debt charges thereon is secured by (i) first, a pledge of the Net Urban Renewal Service Payments on deposit in the Debt Retirement Fund and (ii) second, a pledge of, and lien on, the Nontax Revenues. The Bonds are not and shall not be secured by an obligation or pledge of any money raised by taxation. The Bonds do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City, and the holder or holders thereof have and shall have no right to have taxes levied by the City for the payment of debt charges on the Bonds.

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The Debt Retirement Fund is pledged to and shall be used, so long as any Urban Renewal Bonds are outstanding, solely and exclusively for the payment of debt charges on the Bonds when due as provided in this ordinance and in any ordinance authorizing the issuance of any Additional Bonds. As used herein, the term "Additional Bonds" means urban renewal bonds issued (other than the Bonds) or other obligations entered into by the City pursuant to or as described in the Act and as permitted by Section 9 payable from the Net Urban Renewal Service Payments.

The City hereby covenants and agrees that so long as any Urban Renewal Bonds are outstanding, it will deposit or cause to be deposited in the Debt Retirement Fund, Net Urban Renewal Service Payments, to the extent received, sufficient in time and amount to pay the debt charges on any outstanding Urban Renewal Bonds, as the same become due and payable, and the City covenants and agrees that, so long as any Urban Renewal Bonds are outstanding, it will diligently and promptly proceed in good faith and use its best efforts to cause the urban renewal service payments required by the Development Agreement to be paid to the City, and that, should there be a default in the payment thereof, the City shall cooperate with the any holder of any such Urban Renewal Bonds to fully protect the rights and security of that holder and shall diligently and promptly proceed in good faith and use its best efforts to enforce the payments of the urban renewal service payments under the Development Agreement to the end that, at all times, Net Urban Renewal Service Payments shall be derived sufficient in time and amount to pay the debt charges on outstanding Urban Renewal Bonds as the same become due and payable. To the extent that Net Urban Renewal Service Payments received are not sufficient in time and amount to pay the debt charges

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on the Bonds, as the same become due and payable, the City covenants and agrees that it will diligently and promptly deposit Nontax Revenues in the Nontax Revenue Proceeds Account of the Debt Retirement Fund such that deposits in the Debt Retirement Fund are sufficient to pay debt charges on the Bonds.

Nothing herein shall be construed as requiring the City to use or apply to the payment of debt service charges on the Bonds any funds or revenues from any source other than Net Urban Renewal Service Payments and Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this ordinance or of the Bonds.

An Urban Renewal Bond shall no longer be considered to be outstanding, and the pledge of the Net Urban Renewal Service Payments and Debt Retirement Fund pursuant to this ordinance shall be released with respect to such Urban Renewal Bond, if the City has placed in escrow, and pledged for the payment of debt charges on such Urban Renewal Bond, money or direct or guaranteed obligations of the United States, or a combination of those obligations, determined by an independent firm experienced in making such determinations to be sufficient, with the interest or other investment income accruing on those direct or guaranteed obligations, for the payment of debt charges on such Urban Renewal Bond. For purposes of this paragraph, "direct obligations of or obligations guaranteed as to payment by the United States" includes rights to receive payment or portions of payments of the principal of or interest or other investment income on those obligations, and other obligations fully secured as to payment by those obligations and the interest or other investment income on those obligations.

Section 9. Additional Bonds. The City, to the extent then permitted by law and for purposes consistent with the Act, may, to the extent reasonably deemed necessary by the City to finance costs of carrying out the City's undertakings and activities necessary to eliminate blight and prevent the recurrence of blight, and after complying with the provisions of the last paragraph of this section, issue Additional Bonds, from time to time to provide for:

- (a) additional costs of the Project, or
- (b) other urban renewal project costs in accordance with the Act in the Plan Area or other urban renewal areas of the City, including those heretofore or hereafter designated by the City Commission, or
- (c) refunding any outstanding Urban Renewal Bonds, or
- (d) any combination of the purposes described in clauses (a), (b) and (c) hereof;

provided that the proceeds of any Additional Bonds shall be used by the City solely to pay permissible costs under the Act. Such Additional Bonds shall be secured by a pledge of and be payable from money in the Debt Retirement Fund on a parity with the Urban Renewal Bonds theretofore or thereafter issued and shall be dated, mature, bear interest and be secured as provided by the ordinance authorizing such Additional Bonds; provided that the Nontax Revenue Proceeds Account shall not be pledged to or used for the payment of debt charges on any Additional Bonds unless specifically authorized to do so pursuant to the ordinance authorizing such Additional Bonds.

If determined by the Finance Director to be in the best interest of and financially advantageous to the City, the Finance Director may provide in the Certificate of Award that the issuance of any Additional Bonds on a parity therewith shall be subject to a Coverage Test (as hereinafter defined). The Finance Director may provide in the Certificate of Award so long as any Urban Renewal Bonds are

outstanding that before any Additional Bonds are issued, the City shall be required to furnish a certificate of the Finance Director showing that the aggregate amount of the Net Urban Renewal Service Payments deposited in the Debt Retirement Fund the fiscal year immediately preceding the issuance of those Additional Bonds is at least equal to a certain percentage (which percentage shall not be more than one hundred twenty-five percent (125%), as provided in the Certificate of Award) of the highest amount required to be paid in any succeeding calendar year of the sum of (a) the debt charges on any then outstanding Urban Renewal Bonds and (b) the estimated debt charges on the proposed Additional Bonds; provided further that with respect to such calculation: (1) the debt charges on any Urban Renewal Bonds originally issued (including for this purpose the Additional Bonds proposed to be issued) with a maturity of one year or less shall be deemed to be equal to the product of the principal amount thereof multiplied by 0.07265 and (2) in making such calculation with respect to any Additional Bonds being issued to refund all or any portion of any outstanding Urban Renewal Bonds, the debt charges on such outstanding Urban Renewal Bonds being refunded shall not be included in that calculation (the "Coverage Test").

Junior lien or other subordinate obligations payable from the Net Urban Renewal Service Payments may be issued without limitation, unless the Finance Director determines, taking into account current market conditions and the financial advantages to the City, as set forth in the Certificate of Award, it is in the best interest of the City to include them as Additional Bonds for the Coverage Test, or to establish a separate coverage test for junior lien or other subordinate obligations that is less than the maximum percentage Coverage Test applicable to the Bonds and Additional Bonds set forth above.

Section 10. Tax Covenants. The Bonds may be designated as Tax-Exempt Obligations by the Finance Director as determined in the Certificate of Award. If the Bonds are issued as Tax Exempt Obligations, the following representations and covenants in this Section apply. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

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

The Finance Director as the fiscal officer, or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to

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make or give under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificate of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds. The Finance Director is specifically authorized to designate the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Bonds from gross income for federal income tax

purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Bonds.

Section 11. City Covenants. In addition to other covenants of the City in this ordinance, the City further covenants and agrees as follows:

- (a) The City will, solely from the sources herein provided, pay or cause to be paid the debt charges on the Bonds and any Additional Bonds on, as to the Bonds, the dates and in the manner provided herein and in the Bonds, and as to any Additional Bonds, on the dates and in the manner provided in the ordinance or ordinances authorizing issuance thereof and as provided in the Additional Bonds.
- (b) The City will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in this ordinance, in the Bonds as executed and delivered, and in all proceedings of the City Commission pertaining to the Bonds. The City warrants and covenants that it is, and upon delivery of the Bonds will be, duly authorized by the Constitution and laws of the State of Ohio, including particularly and without limitation the Act, to issue the Bonds and to provide the security for payment of the debt charges in the manner and to the extent herein set forth; that all actions on its part for the issuance of the Bonds have been or will be duly and effectively taken; and that the Bonds will be valid and enforceable special obligations of the City according to the terms thereof. Each provision of this ordinance and the Bonds is binding upon such officer of the City as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; and each duty of the City and of its officers and employees undertaken pursuant to such proceedings for the Bonds is established as a duty of the City and of each such officer and employee having authority to perform such duty, resulting from an office, trust or station within the meaning of Section 2731.01, Ohio Revised Code, providing for enforcement by writ of mandamus.
- (c) The City will not make any pledge or assignment of, or create any lien or encumbrance upon, the Debt Retirement Fund or the Net Urban Renewal Service Payments other than the pledge under this ordinance or under the ordinance or ordinances authorizing issuance of the Additional Bonds.

Section 12. Bond Counsel. This City Commission hereby retains the firm of Squire Sanders (US) LLP pursuant to an engagement letter which has been delivered to the City by that firm in order to furnish legal services in connection with the issuance of the Bonds and other matters related thereto and hereby authorizes the Finance Director to pay such fees and out-of-pocket expenses of such law firm in rendering such services as are approved by the Finance Director and the Law Director. That engagement letter, and the execution thereof by the Finance Director, the Law Director, or any one of them, is hereby authorized, ratified and approved. That engagement letter, and the execution thereof by the Finance Director, the Law Director, or any one of them, is hereby authorized, ratified and approved. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county, municipality or other political subdivision, or of this City, or the execution of public trusts.

Section 13. Municipal Advisor. This City Commission hereby retains the firm of Sudsina & Associates, LLC in order to furnish municipal advisory services in connection with the issuance and sale of the Bonds and other matters related thereto and hereby authorizes the Finance Director to pay such fees and out-of-pocket expenses of such municipal advisory firm in rendering such services as are approved by the Finance Director and the Law Director. In rendering those municipal advisory services, as an independent contractor and in a municipal advisory relationship with the City, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county,

municipality or other political subdivision, or of this City, or the execution of public trusts.

Section 14. Delivery to County Auditor. The Clerk of the City Commission is directed to deliver a certified copy of this ordinance and the Certificate of Award to the County Auditor.

Section 15. Satisfaction of Conditions for Bond Issuance. This City Commission determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the Net Urban Renewal Service Payments and Nontax Revenues which are on deposit in the Urban Renewal Debt Retirement Fund are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

Section 16. Compliance with Open Meeting Requirements. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 17. Effective Date. That, for the reasons set forth in the last preamble hereto, this ordinance is hereby declared to be an emergency measure

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and shall take effect immediately upon its passage and due authentication by the President and the Clerk of the City Commission.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST: KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: JULY 13, 2020