

ORDINANCE NO.: 123-2007
INTRODUCED BY: Alexander

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$2,140,000 OF GENERAL OBLIGATION REFUNDING BONDS BY THE CITY OF RICHMOND HEIGHTS, OHIO, FOR REFUNDING POLICE STATION IMPROVEMENT BONDS, AUTHORIZING PARTICIPATION IN THE OHIO CAPITAL ASSET FINANCING PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to a resolution heretofore duly adopted by the City Council of the City of Richmond Heights, an election was held on August 8, 2000, upon the question of issuing bonds in the sum of \$3,550,000 for the purpose of constructing, furnishing and equipping a new police station; reconstructing, remodeling, renovating, furnishing and equipping the existing police facilities; providing parking facilities therefor and improving the site thereof, and levying a tax outside of the ten-mill limitation to pay the principal of and interest on such bonds, of which election due notice was given according to law and at which election a requisite majority of the electors voting on said proposition voted in favor thereof; and

WHEREAS, the fiscal officer of the City has heretofore certified that the maximum maturity of said bonds was twenty (20) years, and the remaining maximum maturity of the bonds is thirteen (13) years; and

WHEREAS, the City Council of the City of Richmond Heights issued its \$3,550,000 Police Station Improvement Bonds dated March 1, 2001 (the "Prior Bonds"); and

WHEREAS, the City of Richmond Heights has determined it is in the best interest of the City to advance refund as much of the currently outstanding principal amount of the Prior Bonds as is economically advantageous to the City and the City intends to refund the Prior Bonds (the "Project") with the proceeds of the Refunding Bonds (as hereinafter defined); and

WHEREAS, the City Council of the City of Richmond Heights has determined to issue Bonds and said Council intends to pay the principal and interest on such obligations from its existing revenues (the "Revenues"); and

WHEREAS, The Ohio Capital Asset Financing program ("OhioCAF") provides that participating subdivisions by simultaneously issuing their general obligation bonds and coordinating the determination of interest rate and purchase price, investment of funds and other related actions as provided in this ordinance, may be able to achieve debt service and issuance cost savings when compared to that which could be the case if such bonds were issued and sold separately; and

WHEREAS, OhioCAF provides that each participating subdivision will sell its bonds of a similar type authorized by this ordinance and issued by participating subdivision to Robert W. Baird & Co. Incorporated (the "Underwriter") and that the Underwriter will enter into a purchase

contract with The Huntington National Bank, Cincinnati, Ohio (“Huntington”), selling such bonds to Huntington and authorizing the issuance and sale of fractionalized interests (the “Fractionalized Interests”) constituting direct and proportionate interests in payments of the principal of and interest on such bonds;

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

Section 1: Definitions. In addition to the words and terms defined elsewhere in this resolution, the following words and terms as used herein shall have the following meanings unless the context or use indicates another or different meaning or intent:

“Authorized Denominations” means (a) with respect to the principal amount of the Current Interest Bonds, the denominations of \$5,000 or any integral multiple thereof, and (b) with respect to the Capital Appreciation Bonds, the denominations equal to the principal amounts that, when interest is accrued and compounded thereon on each Interest Accretion Date, will equal a \$5,000 Maturity Amount or any integral multiple thereof.

“Bond” or “Bonds” means the Police Station Improvement General Obligation Capital Asset Refunding Bonds, of the City in the principal amount not to exceed \$2,140,000.

“Bond Counsel” means Peck, Shaffer & Williams LLP, Cincinnati, Ohio.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated as of the date established in the Certificate of Award, between the City and the Underwriter setting forth the terms and conditions of the sale of the Bonds, including the purchase price thereof.

“Capital Appreciation Bonds” means those Bonds described in Section 3 hereof constituting Capital Appreciation Bonds and as to which interest is (a) compounded semiannually on each Interest Accretion Date and (b) payable only at maturity.

“Certificate of Award” means the Certificate of the Director of Finance establishing certain terms of the Bonds and authorized in Section 4 hereof.

“Code” means the Internal Revenue Code of 1986, as amended, and references to the Code and Sections of the Code shall include relevant regulations and proposed regulations thereunder and any successor provisions to such sections, regulations or proposed regulations.

“Compound Accreted Amount” means, with respect to any Capital Appreciation Bonds, the principal amount thereof plus interest accrued and compounded on each Interest Accretion Date to the date of maturity, redemption or other date of determination, as set forth herein as of any Interest Accretion Date of the respective Capital Appreciation Bonds, and as determined in accordance with Section 3(b)(iii) hereof as of any other date.

“Current Interest Bonds” means those Bonds described in Section 3 hereof and as to which interest is payable on each Interest Payment Date.

“Escrow Deposit Agreement” means the Escrow Deposit Agreement dated a date as set forth in the Certificate of Award, between the City and the Escrow Trustee.

“Escrow Trustee” means such Bank or Financial Institution as is selected by the Director of Finance, as trustee under the Escrow Deposit Agreement between the City and the Escrow Trustee.

“Interest Accretion Date” means each interest payment date as set forth in the Certificate of Award.

“Interest Payment Date” means with respect to the Bonds, each June 1 and December 1, commencing on a date set forth in the Certificate of Award.

“Maturity Amount” means, with respect to a Capital Appreciation Bond, the principal and interest due and payable at the stated maturity of that Capital Appreciation Bond.

“Memorandum of Instructions” means the Memorandum of Instructions Regarding Rebate delivered to the City at the time of the issuance and delivery of the Bonds, as the same may be amended or supplemented in accordance with its terms.

“Paying Agent Agreement” means the Paying Agent Agreement dated a date as set forth in the Certificate of Award, between the City and the Paying Agent and Registrar with respect to the Bonds.

“Paying Agent and Registrar” means such Bank or Financial Institution as is selected by the Director of Finance, which will serve as paying agent, registrar and transfer agent for the Bonds, or any successor Paying Agent and Registrar.

“Principal Payment Date” means such date as principal payments are required to be paid as set forth in the Certificate of Award.

“Prior Bonds” means the City’s outstanding Police Station Improvement Bonds, dated March 1, 2001.

“Director of Finance” means the fiscal officer of the City of Richmond Heights, Ohio.

“Underwriter” means Robert W. Baird & Co. Incorporated.

Section 2: Declaration of Necessity. This Council hereby declares it necessary to issue bonds of the City in the principal sum of not to exceed \$2,140,000 (the “Bonds”) for the purpose of advance refunding a portion of outstanding police station bonds originally issued for the purpose of constructing, furnishing, and equipping a new police station; reconstructing, remodeling, renovating, furnishing and equipping the existing police facilities; providing parking facilities therefore and improving the site thereof and paying certain costs related to the issuance of the Bonds, together with other permissible costs under the Chapter 133 of the Ohio Revised Code, including the cost of printing the Bonds, expense of delivery of the Bonds, service charges of the paying agent and registrar, legal services and obtaining an approving legal opinion.

Section 3: Authorization and Terms for the Bonds.

(a) The Bonds shall be issued in said principal sum for the purpose aforesaid, under authority of the general laws of the State of Ohio, particularly Chapter 133 of the Ohio Revised Code. The Bonds shall be designated "Police Station Improvement General Obligation Capital Asset Refunding Bonds"; shall be issued only as fully registered Bonds without coupons; shall consist of Current Interest Bonds or Capital Appreciation Bonds or a combination thereof as set forth in the Certificate of Award; shall be in Authorized Denominations (provided, however, that each Bond shall have only one principal maturity date); shall be transferable and exchangeable for Bonds of Authorized Denominations in fully registered form as set forth herein and in the Paying Agent Agreement; and shall bear interest (i) payable on each Interest Payment Date or upon earlier redemption, in the case of Current Interest Bonds, and (ii) accrued and compounded on each Interest Accretion Date and payable at maturity in the case of Capital Appreciation Bonds, in each case as set forth in the Certificate of Award.

(b) (i) The Current Interest Bonds, if any, shall be dated a date as set forth in the Certificate of Award, shall be in the aggregate principal amount and mature on December 1 of the years as set forth in the Certificate of Award, and shall be numbered from CIB-1 or R-1 upward in order of authentication by the Paying Agent and Registrar. Interest on the Current Interest Bonds shall be payable semiannually on each Interest Payment Date, until the principal sum is paid, and shall be calculated on a 30-day month, 360 day year basis. Payment of interest on any Current Interest Bond shall be payable on each Interest Payment Date to the person whose name appears on the record date (fifteen days prior to the Interest Payment Date) on the Bond registration records as the registered owner thereof, by check or draft mailed to such registered owners address as it appears on such registration records. The Current Interest Bonds will mature on such date in the years and in the principal amounts and shall bear interest at the rates set forth in the Certificate of Award.

(ii) The Capital Appreciation Bonds, if any, shall be dated the date of their initial issuance, shall be numbered from CAB-1 upward in order of authentication by the Paying Agent and Registrar, shall be issued in the aggregate principal amount as set forth in the Certificate of Award and shall mature on such date of the years and in the respective principal amounts and Maturity Amounts, and such principal amounts shall bear interest accrued and compounded on each Interest Accretion Date payable at maturity at the respective rates per annum that will provide the respective prices or yields to maturity, as set forth in the Certificate of Award.

(iii) The total interest on each Capital Appreciation Bond as of any date shall be an amount equal to the difference between the Compound Accreted Amount of such Capital Appreciation Bond as of such date and the principal amount of such Capital Appreciation Bond.

The Compound Accreted Amount of the Capital Appreciation Bonds of each maturity as of each Interest Accretion Date shall be set forth in Exhibit A to the Certificate of Award. The Compound Accreted Amount of any Capital Appreciation Bond for each maturity as of any other date shall be (a) the Compound Accreted Amount for such Capital Appreciation Bond on the immediately preceding Interest Accretion Date plus (b) the product of (i) the difference between (A) the Compound Accreted Amount of that Capital Appreciation Bond on the immediately preceding Interest Accretion Date and (B) the Compound Accreted Amount of that Capital

Appreciation Bond on the immediately succeeding Interest Accretion Date, times (ii) the ratio of (C) the number of days from the immediately preceding Interest Accretion Date to (but not including) the date of determination (determined on the basis of a 360-day year comprised of twelve 30-day months) to (D) the number of days from that immediately preceding Interest Accretion Date to (but not including) the immediately succeeding Interest Accretion Date (determined on the basis of a 360-day year comprised of twelve 30-day months); provided, however, that in determining the Compound Accreted Amount of a Capital Appreciation Bond as of a date prior to the first Interest Accretion Date, the date of issuance of the Capital Appreciation Bonds shall be deemed to be immediately preceding the Interest Accretion Date and the original principal amount of that Capital Appreciation Bond shall be deemed to be the Compound Accreted Amount on the date of delivery.

(iv) The aggregate true interest cost of the Bonds shall not exceed such rate as will generate sufficient savings to the City, as compared to the yield on the Prior Bonds that are actually refunded. The final maturity for the Bonds shall be no later than December 1, 2020. The Bonds shall be executed by the Mayor and the Director of Finance, provided that the execution by any or all of said officials may be by facsimile. The Bonds may but shall not be required to bear the seal of the municipality, or a facsimile thereof, and shall bear the manual authenticating signature of an authorized representative of the Paying Agent and Registrar, or such bank or trust company as is selected by the Director of Finance to act, as paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Bonds as set forth in the Certificate of Award. The principal amount of each Bond shall be payable at the office of the Paying Agent and Registrar, and interest thereon shall be paid on each interest payment date to the person whose name appears on the record date (which shall be 15 days prior to each interest payment date) on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at the address that appears on such registration records.

The Bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any Bond during the 15-day period preceding any interest payment date, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new Bond or Bonds of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The City and the Paying Agent and Registrar may deem and treat the registered owner of the Bonds as the absolute owner thereof for all purposes, and neither the City nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

(v) The Current Interest Bonds may be subject to optional redemption prior to maturity at such prices and on such dates as may be set forth in the Certificate of Award. The Capital Appreciation Bonds shall not be subject to optional redemption prior to maturity.

Unless previously called for optional redemption, any Current Interest Bonds maturing on such date or dates as set forth in the Certificate of Award, shall be subject to mandatory sinking fund redemption. The Current Interest Bonds subject to mandatory sinking fund redemption may

be redeemed by the Paying Agent and Registrar without action by the City at a price of par plus accrued interest to the date of redemption and without premium, as set forth in the Certificate of Award. The Capital Appreciation Bonds shall not be subject to mandatory sinking fund redemption.

(vi) Any official having charge with respect to the issuance of the Bonds is hereby further authorized to take such actions as may be reasonably requested in order to make the Bonds eligible for the services of the Depository Trust Company, New York, New York.

(vii) If the Mayor and the Director of Finance determine, in the Certificate of Award, that it is desirable and expedient for the City to participate in OhioCAF and, simultaneously with the issuance of bonds by the other subdivisions so participating, the City may issue the Bonds upon the terms set forth in this ordinance, and the City's obligation represented by the Bonds may be evidenced by the Fractionalized Interests as part of OhioCAF. The Fractionalized Interests will also evidence the similar several bond obligations of other subdivisions participating in OhioCAF. The proportionate obligation of the City evidenced by a single Fractionalized Interest of a particular maturity shall be equal to the aggregate principal amount of Bonds of that maturity divided by the aggregate principal amount of bonds of that maturity issued by all subdivisions participating in OhioCAF (including the Bonds) multiplied by the face amount of such Fractionalized Interests. If the City elects to participate in OhioCAF, this Council acknowledges that the City will be directly obligated to the registered holder of a Fractionalized Interest in the Bonds, and that such holder may proceed directly against the City to enforce the City's obligation to pay the principal of and interest on the Bonds as though such holder was a registered holder of a Bond.

The Mayor and the Director of Finance are hereby authorized to execute the Certificate of Award and to take all other action required in connection with the issuance and sale of the Bonds. Any official having charge with respect to the issuance of the Bonds is hereby further authorized to execute on behalf of the City all documents and closing certificates as may be reasonably required by bond counsel or underwriter's counsel to effectuate the sale, issuance and delivery of the Bonds or the Fractionalized Interests including, but not limited to, a Bond Purchase Agreement, a Paying Agency Agreement, an Acceptance of the Bond Purchase Contract for the Fractionalized Interests to be executed by and between the Underwriter and the Trustee, and an Acceptance of the Continuing Disclosure Certificate for the Fractionalized Interests, in such form and containing such terms, covenants and conditions not inconsistent herewith, and to take such other actions as may be necessary to comply with the requirements of Securities and Exchange Commission Rule 15c2-12, as amended from time to time.

Section 4: Sale of the Bonds; Certificate of Award. The Bonds shall be sold to such bank or other financial institution or the Underwriter as designated in the Certificate of Award at the price set forth in the Certificate of Award. That the matters contained in the Certificate of Award are consistent with this ordinance shall be conclusively evidenced by the execution of the Certificate of Award. The Director of Finance or her designee is directed to make the necessary arrangements on behalf of the City to establish the date, location, procedure and conditions for the delivery of the Bonds and to take all steps necessary to effect due authentication, delivery and perfection for the security of the Bonds under the terms hereof. It is hereby determined that the purchase price and the interest rates for the Bonds set forth in the Certificate of Award, and

the manner of sale and the terms of the Bonds as provided in this ordinance and the Certificate of Award, are consistent with all legal requirements and will carry out the public purposes of the City, in accordance with Chapter 133, Ohio Revised Code. The Mayor and Director of Finance are hereby authorized and directed to execute and deliver a Purchase Agreement by and between the City and the purchaser or the Underwriter setting forth the terms and conditions of the sale of the Bonds to the purchaser or the Underwriter and any other agreement deemed necessary by the purchaser of the Bonds which agreement is approved by Peck, Shaffer & Williams LLP, as bond counsel to the City.

Section 5: Notice of Call for Redemption. Notice of any call for redemption of Current Interest Bonds shall be sent by registered or certified mail to the registered holders thereof by the Paying Agent and Registrar, on behalf of the City, not less than thirty (30) days prior to the date of redemption, upon which date all interest upon the Current Interest Bonds so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Such notice shall (i) specify the Current Interest Bonds to be redeemed, the redemption date, the redemption price and the place or places where amounts due upon such redemption will be payable (which shall be the principal office of the Paying Agent and Registrar) and, if less than all of the Current Interest Bonds are to be redeemed, the numbers of the Current Interest Bonds, and the portions of the Current Interest Bonds, so to be redeemed, and (ii) state that on the redemption date the Current Interest Bonds to be redeemed shall cease to bear interest. Such notice may set forth any additional information relating to such redemption.

If fewer than all outstanding Current Interest Bonds are called for optional redemption at one time, the Current Interest Bonds to be called will be called in the amounts determined by the City. If fewer than all of the Current Interest Bonds of a single maturity are to be redeemed, the selection of Current Interest Bonds (or portions of Current Interest Bonds in amount of \$5,000 or any integral multiple of \$5,000) to be redeemed will be made by the Paying Agent and Registrar by lot in a manner determined by the Paying Agent and Registrar.

Section 6: Security and Source of Payment of Bonds. For the payment of the principal of and the interest on the Bonds, the full faith, credit and revenues of the City are hereby irrevocably pledged and for the purpose of providing the necessary funds to pay the interest on the Bonds promptly when and as the same falls due, and also to provide a fund sufficient to discharge the Bonds at maturity, there shall be and is hereby levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period said Bonds are to run, outside of the limitations of Section 2 of Article XII of the Constitution of Ohio, which tax shall be sufficient in amount to provide for the payment of the interest on the Bonds when and as the same falls due and to provide for the retirement and discharge of the principal of the Bonds at maturity and shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers and in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund,

which, together with all interest collected on the same, shall be irrevocably pledged for the prompt payment of the principal of and interest on the Bonds, when and as the same fall due.

Section 7: Proceeds of the Bonds. The proceeds from the sale of the Bonds, except any premium or accrued interest thereon, shall be apportioned, deposited and credited in accordance with Section 133.32 of the Revised Code to the respective purposes and funds in accordance with this ordinance. Premium, if any, shall be used to pay issuance costs of the Bonds or shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on said Bonds in the manner provided by law. Accrued interest, if any, shall be transferred to the bond retirement fund to be applied to the payment of interest on said Bonds in the manner provided by law.

All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such financing statements and other instruments or agreements as are, in the opinion of bond counsel, necessary to carry out the purposes of this ordinance.

Section 8: Federal Tax Matters. This Council, for and on behalf of the City, hereby covenants that it will restrict the use of the proceeds, if any, of the Bonds hereby authorized in such manner and to such extent, if any, and take such other actions as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations prescribed thereunder. The Director of Finance or any other officer having responsibility with respect to the issuance of the Bonds is authorized and directed to give an appropriate certificate on behalf of the City, on the date of delivery of the Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Bonds are hereby designated “qualified tax-exempt obligations” for the purposes set forth in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. The City does not anticipate issuing more than \$10,000,000 of “qualified tax-exempt obligations” during this calendar year.

Section 9: Approval of Escrow Deposit Agreement. In connection with the issuance of the Bonds and to serve the rights of the holders of the Prior Bonds that are refunded hereby, the Director of Finance, on behalf of this Council, is hereby authorized and directed to execute and deliver an Escrow Deposit Agreement with the Escrow Trustee, which Escrow Deposit Agreement shall contain such terms as may be agreed upon by the City and the Escrow Trustee and as shall be approved by Bond Counsel.

Section 10: Subscription for United States Treasury Obligations. Peck, Shaffer & Williams LLP, Robert W. Baird & Co. Incorporated, or The Huntington National Bank is hereby authorized to subscribe for United States Treasury obligations on behalf of the City to fund any required escrows.

Section 11: The Clerk of Council is hereby directed to forward a certified copy of this ordinance to the County Auditor.

Section 12: It is 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: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the inhabitants of the City and the immediate issuance of the Bonds is required to provide for the timely financing of the projects to which this financing relates. Therefore, provided this Ordinance receives the affirmative vote of five members of Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____
Betsy Traben
Clerk of Council

David H. Roche
President of Council

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of Ordinance No. ____ and that a copy of the foregoing ordinance was certified this day to the County Auditor.

Clerk of Council

Dated: _____, 2007

RECEIPT

The Undersigned hereby acknowledges receipt of a certified copy of the foregoing ordinance.

County Auditor

Dated: _____, 2007