

## ORDINANCE NO. 9-12

BY: **SCOTT M. TUMA**

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF BONDS IN AN AMOUNT NOT TO EXCEED \$890,000 FOR THE PURPOSE OF REFUNDING ALL OF THE CITY'S OUTSTANDING VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 1995, AND DECLARING AN EMERGENCY

WHEREAS, this Council has determined that it is in the best interests of the City of Parma, Ohio (the "City") to refund all of the City's outstanding Various Purpose General Obligation Bonds, Series 1995, to reduce interest costs and provide savings in the costs of borrowing; and

WHEREAS, the Auditor, as fiscal officer, has certified to this Council the estimated life of the improvement described below and the maximum maturity of the bonds herein authorized;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Parma, Cuyahoga County, Ohio:

Section 1. It is hereby determined to be in the best interest of the City, and declared necessary therefor, to issue bonds of the City of Parma, Ohio in the principal sum of not to exceed \$890,000 (the "Bonds") for the purpose of refunding all of the City's Various Purpose General Obligation Bonds, Series 1995 (the "Prior Bonds"), and paying costs of issuance of the Bonds.

As used herein, the following terms shall have the following meanings:

"Auditor" means the City Auditor of the City.

"Certificate of Award" means the Certificate of Award defined in Section 7 of this Ordinance.

"Mandatory Redemption Dates" means the Principal Payment Dates on which the Bonds are to be redeemed through the application of Mandatory Sinking Fund Installments.

"Mandatory Sinking Fund Installments" means the amounts required in or pursuant to this Ordinance to be deposited in the Bond Retirement Fund for purposes of retiring, on a Mandatory Redemption Date, principal of the Bonds which, according to their stated maturities, are due and payable.

"Mayor" means the Mayor of the City.

"Principal Payment Dates" means December 1 in each of the years from and including 2012 to 2015.

"Purchaser" means The Huntington National Bank.

"Registrar" means the Treasurer of the City, as the authenticating agent, bond registrar and paying agent for the Bonds, or a bank or trust company as hereafter appointed by the Treasurer.

"Treasurer" means the Treasurer of the City.

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Section 2. The Bonds (a) shall be issued as one fully registered term Bond maturing on December 1, 2015; (b) shall be numbered R-1; (c) shall not be transferable to any other person; and (d) shall be dated as of the date of delivery, but not later than March 31, 2012. Notes have not been issued in anticipation of the Bonds.

The Bonds shall bear interest at a fixed rate of two and ten one-hundredths per centum (2.10%) per annum, computed on a 360-day per year basis, payable semiannually on June 1 and December 1 of each year, commencing on June 1, 2012 (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.

The Bonds are not subject to optional redemption by the City.

Section 3. The Bonds shall mature pursuant to mandatory redemption and shall be redeemed through the application of Mandatory Sinking Fund Installments on the Principal Payment Dates, at one hundred percent (100%) of the principal amount thereof plus accrued interest to such date, in the years and principal amounts specified by the Treasurer in the Certificate of Award.

Section 4. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America. The principal of and interest on the Bonds shall be payable at the office of the Registrar, as paying agent, without deduction for exchange, collection or service charge.

Section 5. The Bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this Ordinance; shall be executed by the Mayor and by the Auditor of the City, one or both of whose signatures may be a facsimile signature; shall be issued only in fully registered form in the name of the Purchaser; and shall be registered as to both principal and interest at the office of the Registrar. The principal on the Bonds shall be payable upon presentation and surrender to the Registrar. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name that Bond is registered (the “Holder”) on the registration books of the City maintained by the Registrar and at the address appearing thereon at the close of business of the fifteenth day of the calendar month preceding the Interest Payment Date (the “Regular Record Date”). Any interest not timely paid (the “Defaulted Interest”) shall cease to be payable to the person who is the Holder as of the Regular Record Date and shall be payable to the person who is the Holder at the close of business on a special record date for the payment of such defaulted interest. Such special record date (the “Special Record Date”) shall be fixed by Council whenever moneys become available for payment of the Defaulted Interest, and the 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, not less than ten (10) days prior thereto to each Holder such Holder’s address as it appears on the registration books of the City maintained by the Registrar.

No Bond shall be valid or become obligatory for any purpose unless and until an authentication certificate appearing on the Bond shall have been duly endorsed by the Registrar.

The Bonds shall not be transferable by the Purchaser.

Section 6. The Bonds shall be awarded and sold at private sale to the Purchaser, in accordance with law, the provisions of this Ordinance and the Treasurer’s determination of the best interests of and financial advantages to the City and its taxpayers and conditions currently existing in the financial market, at the purchase price specified in the Certificate of Award (the “Purchase Price”), and the Treasurer, if requested by the Purchaser, shall sign and deliver, in the name and on behalf of the City, a bond purchase agreement between the City and the Purchaser.

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The Mayor, the Treasurer and the Auditor, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents, agreements, certificates and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance, including, without limitation, calling the Prior Bonds for redemption. The Treasurer shall, in accordance with his determination of the best interests of and financial advantages to the City and its taxpayers and conditions then existing in the financial markets, consistently with the provisions of hereof, establish the terms of the Bonds to be specified in the Certificate of the Award; sign the Certificate of Award evidencing the sale of the Bonds; obtain the services of Climaco, Wilcox, Peca, Tarantino & Garofoli Co., L.P.A., Bond Counsel, cause the Bonds to be prepared; and have the Bonds signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Purchaser upon payment of the Purchase Price.

Section 7. The Treasurer is hereby authorized to determine and specify in a certificate (the "Certificate of Award"): (a) the aggregate principal amount of the Bonds, provided that such amount shall not exceed \$890,000; (b) the principal amount of the Bonds that shall be payable on each Principal Payment Date; and (c) the Purchase Price, provided that the amount thereof (excluding any portion thereof representing accrued interest on the Bonds from their date to the date of their delivery) shall be not less than ninety-seven percent (97%) of the aggregate principal amount of the Bonds.

Section 8. The accrued interest and premium, if any, on the Bonds shall be paid into the Bond Retirement Fund to be applied to the payment of the principal and interest of the Bonds in the manner provided by law. The remaining proceeds from the sale of said Bonds, except proceeds used for payment of certain costs of issuance set forth in Section 133.15(B), Ohio Revised Code, shall be deposited into an escrow account and used for the purpose of redeeming all of the outstanding Prior Bonds within 90 days or less from the issuance date of the Bonds, and for no other purpose, pursuant to the terms of a refunding escrow agreement ("Escrow Agreement"), which is hereby authorized. Issuance costs may be paid out of any other lawfully available moneys of the City and any such costs which are future financing costs may be paid from the same sources from which the principal of and interest on the Bonds are paid. The Escrow Agreement shall be in customary form, as approved by the Treasurer or the Auditor as evidenced by such official's signature thereon. The moneys deposited pursuant to the Escrow Agreement shall be held as cash or invested in direct obligations of or obligations guaranteed as to payment by the United States that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys, together with interest or other investment income accrued on those moneys, will be sufficient for the payment of debt charges on the Prior Bonds, and such escrowed moneys shall be irrevocably set aside and pledged for such purpose. The Treasurer is authorized to select the Escrow Agent, and the Treasurer and the Auditor each are authorized to execute the Escrow Agreement and the Auditor is hereby authorized to pay the charges for the services of the Escrow Agent.

Section 9. For the purpose of providing the necessary funds to pay the interest on the foregoing issue of Bonds promptly when and as the same falls due, and also to provide a fund sufficient to pay the principal of the Bonds when due, there shall be and is hereby levied on all taxable property in the City, in addition to all other taxes, a direct tax annually during the period said Bonds are to run in an amount sufficient to provide funds to pay the interest upon said Bonds as and when the same fall due, and also to provide a fund for the payment of the principal of the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution of Ohio.

Section 10. Said tax 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 said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full

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amount thereof. The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund, which, together with the interest collected on the same (other than such interest as may be required to be rebated to the federal government), shall be irrevocably pledged for the payment of the principal and interest on said Bonds when and as the same fall due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such revenues so available and appropriated.

Section 11. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in and for the issuing of the Bonds in order to make them legal, valid and binding obligations of the City have been performed in regular and due form as required by law; that the full faith and credit of said City shall be and are hereby irrevocably pledged for the prompt payment of the principal thereof and the interest thereon at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, will be exceeded in issuing the Bonds.

Section 12. The City covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as maybe necessary so that the Bonds will not constitute arbitrage Bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The Auditor, as the fiscal officer, or any other officer of the City having responsibility for the issuance of the Bonds shall give an 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 the Bonds.

The City further covenants that it (a) 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) will not take or authorize to be taken any actions that would adversely affect that exclusion, and that 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 acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The City Auditor and other appropriate officers are authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, as may be appropriate to assure such exclusion of that interest.

Section 13. The Bonds are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby covenants that the City, having no "subordinate entities" with authority to issue obligations within the meaning of that Section of the Code, in or during the calendar year in which the Bonds are issued (expected to be in 2012), (i) will not designate as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code tax-exempt obligations, including the Bonds, in an aggregate principal amount in excess of \$10,000,000, and (ii) will not issue tax-exempt obligations within the meaning of Section 265(b)(4) of the Code, including the Bonds and any qualified 501(c)(3) bonds as defined in Section 145 of the Code (but excluding obligations, other than qualified 501(c)(3) bonds, that are private activity bonds as defined in Section 141 of the Code), in an aggregate principal amount exceeding \$10,000,000, unless the City receives an opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not cause the Bonds to cease to be "qualified tax-exempt obligations."

Section 14. The Auditor, as fiscal officer of the City, is hereby directed to forward a certified copy of this Ordinance to the County Auditor.

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Section 15. Each of the covenants and obligations of the City and its officers and agents herein contained is hereby established as a duty specifically enjoined by law and resulting from an office, trust or station upon the City and its officers and agents within the meaning of Section 2731.01 of the Revised Code.

Section 16. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with all legal requirements including the City’s Codified Ordinances and Section 121.22 of the Revised Code of Ohio.

Section 17. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of this City and for the further reason that, the immediate issuance and sale of the bonds herein authorized is necessary to maximize debt service savings to the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

APPROVED: \_\_\_\_\_

FILED WITH  
THE MAYOR: \_\_\_\_\_

\_\_\_\_\_  
MAYOR, CITY OF PARMA, OHIO

FISCAL OFFICER'S CERTIFICATE

City of Parma, Ohio  
January 17, 2012

TO THE COUNCIL OF THE CITY OF PARMA, OHIO

The undersigned, Fiscal Officer of the City of Parma, Ohio (the "City"), as defined by Revised Code Section 133.01, and in the ordinance authorizing the bonds hereinafter referred to, hereby certifies in connection with your proposed issue of bonds in the principal amount of not to exceed \$890,000 (the "Bonds") for the purpose of: (a) refunding all of the City's Various Purpose General Obligation Bonds, Series 1995 (the "Prior Bonds"); and (b) paying costs of issuance of the Bonds; the Prior Bonds being originally issued for the purposes of (a) paying costs associated with the settlement of healthcare claims and to pay the costs of maintaining the City's self-insurance program for health care benefits; (b) paying costs of the acquisition, repair and renovation of land and a building within the City; (c) advance refunding the City's Various Purpose General Obligation Bonds, Series 1990; and (d) paying the costs of resurfacing certain streets within the City, that:

1. The estimated life of each improvement is hereby certified to be at least five (5) years.
2. The maximum maturity of the Prior Bonds is at least twenty (20) years, and the last maturity of the Bonds is not later than the year of last maturity permitted by law for the Prior Bonds.

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Auditor  
City of Parma, Ohio