

ORDINANCE NO. 7 , 2008

AUTHORIZING DEFEASANCE OF A PORTION OF THE VARIOUS PURPOSE REFUNDING BONDS, SERIES 2003, AUTHORIZING THE EXECUTION OF AN ESCROW DEPOSIT AGREEMENT, AUTHORIZING THE PURCHASE OF STATE AND LOCAL GOVERNMENT SECURITIES TO FUND AN ESCROW FUND.

WHEREAS, pursuant to sections 5709.40 et seq of the Ohio Revised Code the City created the Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund") in connection with an exemption of real property taxes on certain property in the City; and

WHEREAS, the City heretofore authorized, sold and delivered its \$3,490,000 Real Estate Acquisition Bonds dated July 1, 1995 (the "1995 Bonds"), to finance the cost of real estate acquisitions; and

WHEREAS, the City also heretofore authorized, sold and delivered its \$7,895,000 Various Purpose Refunding Bonds, Series 2003 dated June 1, 2003, (the "2003 Bonds") which were issued in part to refund the 1995 Bonds. Of the portion of the 2003 Bonds issued to refund the 1995 Bonds, \$2,175,000 remains outstanding; and

WHEREAS, the City has a balance of \$2,499,355.69 in its TIF Fund from service payments in lieu of taxes pursuant to Section 5709.42; and

WHEREAS, the City intends to pay the principal of and interest on the portion of the 2003 Bonds issued to refund the 1995 Bond when the same becomes due until December 1, 2013, and to provide for the payment of the remaining balance plus redemption premium if any on December 1, 2013, by the deposit into an escrow fund of

moneys from the City's Municipal Public Improvement Tax Increment Equivalent Fund, received by the City from service payments in lieu of taxes; and

WHEREAS, the City intends to defease all of the portion of the 2003 Bonds issued to refund the 1995 Bonds; and

WHEREAS, the City has determined in consultation with Fifth Third Securities, Inc. it is in the best interest of the City to defease the portion of the 2003 Bonds issued to refund the 1995 Bonds; and

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Montgomery, (hereinafter called the "City"), County of Hamilton, Ohio:

SECTION 1. That it is hereby determined to be in the best interest of the City to defease \$2,175,000 of the currently outstanding 2003 Bonds, representing the outstanding portion of the 2003 Bonds issued to refund the 1995 Bonds.

SECTION 2. That the Finance Director is hereby authorized and directed to deposit an amount required to purchase government securities necessary to fully fund the escrow account from the TIF Fund into an Escrow Deposit Account established with The Bank of New York Trust Company, N.A., as Escrow Agent, ("Escrow Agent") to be used by the Escrow Agent to pay principal and interest, as it comes due, on that portion of the 2003 Bonds being defeased.

SECTION 3. That the Finance Director is further authorized and directed to enter into an Escrow Deposit Agreement with The Bank of New York Trust Company, N.A. to provide for the defeasance of a portion of the 2003 Bonds in substantially the form as is

currently on file with the Finance Director with only such changes as are approved by legal counsel.

SECTION 4. That the City hereby authorizes the engagement of Fifth Third Securities, Inc., as Financial Advisor to the City; Peck, Shaffer & Williams LLP, as special legal counsel to the City; and Causey Demgen & Moore, as verification agent for the defeasance.

SECTION 5. That the Clerk of Council is hereby directed to forward a certified copy of this ordinance to the county auditor.

SECTION 6. That 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 the law.

SECTION 7. That this Ordinance shall take effect at the earliest date permitted by law.

PASSED: August 6, 2008

ATTEST: Susan J. Hamm
Susan J. Hamm, Clerk of Council

Gerri Harbison
Gerri Harbison, Mayor

APPROVED AS TO FORM
Terrence M. Donnellon
Terrence M. Donnellon, Law Director