

CITY OF CANAL WINCHESTER, OHIO

ORDINANCE NO. 20-011

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE NOT TO EXCEED \$2,400,000 FOR THE PURPOSE OF PAYING ALL OR A PART OF THE COST OF ACQUIRING, CONSTRUCTING, EQUIPPING AND IMPROVING THE CITY OF CANAL WINCHESTER'S CITY HALL AND DECLARING AN EMERGENCY.

WHEREAS, the City Council (the "Council") of the City of Canal Winchester, Ohio (the "City") has determined under its Charter and Chapter 133, including Section 133.15 of the Ohio Revised Code, that it is necessary to issue its \$2,400,000 City Hall Acquisition, Construction and Improvement Note, Series 2020 (Tax-Exempt) (the "Note") for the purpose of financing in part the acquisition, construction, equipping and improving of the City's City Hall and Municipal Complex, located on approximately 1.29 acres identified as Franklin County, Ohio Parcel Numbers 184-000019, 184-000020, 184-000021, 184-000360, 184-000321, 184-000251, and 184-003232 (the "Project"); and

WHEREAS, the Finance Director, as Fiscal Officer of the City, has estimated the life or period of usefulness of the improvements constituting the Project is at least thirty (30) years and has certified that the maximum maturity of the Note is ten (10) years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue the Note in an amount not to exceed Two Million, Four Hundred Thousand Dollars (\$2,400,000) for the purpose of paying part of the cost of the Project, including "financing costs," as defined in Section 133.01 of the Ohio Revised Code, related to the issuance of the Note and other permissible costs under Chapter 133 of the Ohio Revised Code (the "Act"), under authority of and pursuant to the general laws of the State of Ohio, particularly the Act.

Section 2. The Note shall be designated "\$2,400,000 City Hall Acquisition, Construction and Improvement Note, Series 2020 (Tax-Exempt)."

Section 3. The Note shall be a special revenue obligation of the City, and non-tax revenues of the City are hereby pledged for the prompt payment of the debt service charges on the Note. "Non-Tax Revenues" is defined as government revenues not generated from taxes.

Section 4. The funds derived from the Non-Tax Revenues shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Note when and as the same fall due.

Section 5. The Note shall be dated the date of issuance and shall bear interest at the rate of four percent (4.0%) per annum, shall be payable at such times set forth in the Note and shall mature as set forth in the Note. The Note shall be sold at private sale pursuant to the Real Estate Purchase Agreement executed on August 12, 2019 (the "Real Estate Agreement") between the City and Bob McDorman Real Estate, LLC (the "Purchaser") on such terms not inconsistent with this Ordinance, with consideration for purchase of the Note being the deed of the real property purchased pursuant to such Real Estate Agreement (the "Property") to the City.

Section 6. The Note shall be executed by the Finance Director and the Mayor, provided that either or both of such signatures may be a facsimile. The Note shall express upon its face the purpose for which it is issued and that it is issued pursuant to this Ordinance.

The principal of and interest on the Note shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar (as defined in Section 7 hereof). The principal of and interest on the Note shall be payable upon presentation and surrender of the Note at its maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Finance Director on behalf of the City.

Section 7. The Finance Director is hereby authorized and directed to serve as authenticating agent, note registrar, transfer agent, and paying agent (collectively, the "Note Registrar") for the Note. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Finance Director in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Finance Director may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise the Noteholder of the change in identity and new address of the Note Registrar. So long as the Note remains outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of the Note as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name the Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on the Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Note, including the interest thereon, to the extent of the amount or amounts so paid.

Section 8. In all cases in which the Note is exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Note in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note 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 Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Note. Any Note issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Note surrendered upon that transfer or exchange.

Section 9. That this Council, for and on behalf of the City, hereby covenants that it will restrict the use of the proceeds of the Note 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 Finance Director or any other officer having responsibility with respect to the issuance of the Note is authorized and directed to give

an appropriate certificate (if such certificate is required, based on the size of the issue, under current regulations) on behalf of the City, on the date of delivery of the Note 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.

The Finance Director shall keep and maintain adequate records pertaining to investment of all proceeds of the Note sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Note which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits (or penalties in lieu thereof) to the United States Department of the Treasury. The Finance Director of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Note requires any such reports or rebates. Monies necessary to make such rebate payments (or to pay such penalties) are hereby appropriated for such purpose.

The Note is hereby designated a "qualified tax-exempt obligation" for the purposes set forth in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. The Council does not anticipate issuing more than \$10,000,000 of tax-exempt obligations (other than (i) private activity bonds which are not qualified 501(c)(3) bonds, and (ii) current refunding bonds) during the current calendar year.

Section 10. The law firm of Frost Brown Todd LLC is hereby appointed to serve as bond counsel to the City in connection with the issuance of the Note. The fees to be paid to such firm shall be subject to review and approval of the Mayor and shall not exceed the fees customarily charged for such services.

Section 11. The Mayor and the Finance Director are each hereby authorized to execute and deliver the Mortgage from the City to the Purchaser in the form on file with the Clerk of Council, with such changes as are approved by the persons executing it on behalf of the City and by the Law Director. Additionally, the Mayor and the Finance Director are each hereby authorized and directed, acting individually or together, to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance and the Real Estate Agreement, as they in their direction shall deem necessary or appropriate.

Section 12. The Finance Director and any other officers of the Council are each hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Note and to furnish a copy of such transcript to the Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Note and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including without limitation a general certificate of the Finance Director and a no-litigation certificate of the Mayor and the Finance Director, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 13. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Note in order to make it a legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Note.

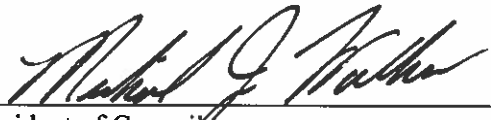
Section 14. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 15. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that the immediate effectiveness of this ordinance is necessary (i) to assure that the Project is acquired, constructed and financed in a timely manner, and (ii) so that the City, its citizens and taxpayers may receive the benefits of the Project as soon as possible; wherefore, in accordance with Section 4.07 and 5.05 of the Charter of the City, this Ordinance shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten (10) days after passage if the Mayor neither approves nor vetoes this Ordinance.

Section 16. The Finance Director is hereby directed to forward a certified copy of this Ordinance to the County Auditor of Franklin County, Ohio and to the County Auditor of Fairfield County, Ohio.

[Signature Page to Follow]

Signed:



President of Council

Adopted: February 18, 2020

Effective: February 18, 2020



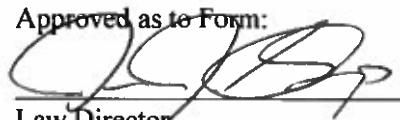
Clerk of Council

Approved:



Mayor


Approved as to Form:



Law Director

CERTIFICATE

The undersigned Finance Director hereby certifies that the foregoing is a true copy of Ordinance No. 20-011 duly adopted by the Council of the City of Canal Winchester, Ohio on February 18, 2020 and that a true copy thereof was certified to the County Auditor of Franklin County, Ohio and to the County Auditor of Fairfield County, Ohio.



Finance Director
City of Canal Winchester, Ohio