

RECORD OF ORDINANCES

Ordinance No. 2020-44

Passed DECEMBER 14 2020

AN ORDINANCE AUTHORIZING THE ISSUANCE OF BONDS NOT TO EXCEED \$2,550,000 FOR THE PURPOSE OF REFUNDING THE VILLAGE'S OUTSTANDING VARIOUS PURPOSE BONDS, SERIES 2010, ISSUED TO PAY PART OF THE COST OF CONSTRUCTING SANITARY SEWER AND WATER UTILITY IMPROVEMENTS, AND THE DECLARATION OF AN EMERGENCY

WHEREAS, this Village Council passed Ordinance Nos. 2010-18, 2010-19 and 2010-20 on May 10, 2010 (collectively, the "Prior Ordinance") authorizing the issuance of Various Purpose Bonds, Series 2010 of this municipality dated as of May 1, 2010 (the "Prior Bonds") for the purposes of paying part of the costs of constructing improvements to this municipality's sanitary sewer collection and treatment system and water supply, treatment and storage system (collectively, the "Project"); and,

WHEREAS, this Village Council desires to refund the outstanding Prior Bonds which will result in interest cost savings which will accrue to the benefit of this municipality, its citizens and taxpayers and the users of the utility systems improved by the Project; and,

WHEREAS, the Village Fiscal Officer, as fiscal officer of this municipality, has heretofore estimated that the life of the improvements constituting the Project is at least five (5) years, and certified that the maximum maturity of the bonds issued therefor is forty (40) years; but reduced to thirty (30) years by virtue of the issuance of the Prior Bonds; and,

WHEREAS, this Village Council expects the debt service charges on the bonds authorized hereby will be paid from the net revenues of the utility systems improved by the Project (collectively, the "Revenues");

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE VILLAGE OF BALTIMORE, OHIO, (hereafter called the "Municipality"),
A MAJORITY OF ITS MEMBERS CONCURRING:

SECTION 1. It is necessary to issue and sell bonds of the Municipality in the principal sum not to exceed \$2,550,000 (the "Bonds") for the purpose of paying part of the cost of refunding some or all of the Prior Bonds, and paying "financing costs," as defined in Ohio Revised Code Section 133.01, related to the issuance of the Bonds and the refunding of the Prior Bonds, under authority of and pursuant to the general laws of the State of Ohio, particularly Chapter 133 of the Ohio Revised Code.

SECTION 2. The Bonds shall (i) be issued in a principal amount not exceeding the amount set forth above for the purpose aforesaid, (ii) be dated, (iii) be numbered from R-1 upwards in order of issuance, (iv) be of such denominations, (v) mature in installments on dates and in amounts calculated to be such that, when added to the interest payable on the Bonds, will amortize the principal amount of the Bonds over the term of the Bonds in substantially equal annual payments of principal and interest, provided that the final maturity of the Bonds shall be not later than the latest maturity of the Prior Bonds being refunded, and (vi) bear interest at a rate or rates resulting in a net interest cost to the Municipality not to exceed four percent (4%) per annum calculated on the basis of a 360-day year comprised of twelve, 30-day months, payable on such dates (each a "Bond Payment Date"), all as determined by the Village Fiscal Officer. The determinations required by this ordinance to be made by the Village Fiscal Officer shall be set forth in a certificate of award (the "Certificate of Award") without further action of this Council and which shall be conclusive and is hereby incorporated into this ordinance by reference.

The Bonds shall be subject to redemption at the option of the Municipality at any time, or not at all, upon such terms and at such price or prices (but in any case, not greater than 100% of the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date), as shall be determined by the Village Fiscal Officer.

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The Bonds shall be designated "Various Purpose Refunding Bonds, Series 2021" or as otherwise determined by the Village Fiscal Officer.

It is hereby determined by this Village Council that the issuance of the Bonds provided herein, including without limitation, the redemption provisions to be set forth in the Certificate of Award, are in the best interests of the Municipality. It is hereby further determined that the refunding of the Prior Bonds will result in interest cost savings which will accrue to the benefit of the Municipality, its citizens and taxpayers and the users of the utility systems improved by the Project.

SECTION 3. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this ordinance. The Bonds shall be in fully registered form without coupons, shall bear the signatures of the Mayor or Village Administrator and the Village Fiscal Officer, provided that either or both of such signatures may be facsimiles. The Bonds shall bear the manual authenticating signature of the Village Fiscal Officer serving as, or of an authorized representative of a bank or trust company determined by the Village Fiscal Officer to serve as, the paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Bonds. The principal of an interest on the Bonds shall be payable in the manner and upon the terms determined by the Village Fiscal Officer.

The Bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the designated office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The Municipality and the Paying Agent and Registrar shall not be required to transfer any Bond during the 15-day period preceding any Bond Payment Date or preceding any selection of Bonds to be redeemed, or after such Bond has been selected for partial or complete redemption, 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 shall be issued to the transferee in exchange therefor.

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

SECTION 4. The Bonds shall be general obligations of the Municipality, and for the payment of the Bonds and the interest thereon, the full faith, credit, and revenue of the Municipality are hereby irrevocably pledged, and for the purpose of providing the necessary funds to pay the principal of and 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 Municipality, within the ten-mill limitation of Article XII, Section 2 of the Constitution of Ohio, in addition to all other taxes, a direct tax annually during the period the Bonds are to run in an amount sufficient to provide funds to pay the principal of and interest upon the Bonds as and when the same falls due and also to provide a fund for the discharge of the principal of the Bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Constitution of Ohio; provided, that in each year to the extent that Revenues or moneys from other sources are available for the payment of the Bonds and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such Revenues or other monies so available and appropriated.

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 or 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 payment of the interest on and the principal of the Bonds when and as the same shall fall due.

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SECTION 5. The Bonds shall be sold to one or more entities (singly or collectively, the “Purchaser”), in such manner and by negotiated or competitive sale, at not less than 97% of the principal amount thereof, plus accrued interest to the date of delivery, as determined by the Village Fiscal Officer without further action of this Village Council, pursuant to the Purchaser’s offer to purchase which such officer is hereby authorized to accept on behalf of the Municipality. The Mayor, the Village Administrator, the Village Fiscal Officer, or either of them acting alone, are hereby separately authorized, to execute and deliver a purchase agreement, term sheet or other document containing the terms for the sale of the Bonds (the “Purchase Agreement”) in such form as may be approved by the officer executing the same, such officer’s execution thereof on behalf of the Municipality to be conclusive evidence of such authorization and approval, and to make the necessary arrangements with the Purchaser to establish the date, location, procedure and conditions for the delivery of the Bonds to the Purchaser, to give all appropriate notices and certificates and to take all steps necessary to effect the due execution and delivery of the Bonds pursuant to the provisions of the Purchase Agreement.

The proceeds from the sale of the Bonds, except as any premium and accrued interest received, shall be deposited in an appropriate fund and used for the purpose aforesaid and for no other purpose and for which purpose such proceeds are hereby appropriated. Any premium and accrued interest received from such sale shall be transferred to the bond retirement fund to be applied in the manner provided by law.

The Mayor, the Village Administrator, the Village Fiscal Officer, the Village Solicitor, and other appropriate officials of the Municipality, are each hereby separately authorized, without further action of this Village Council, to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of Dinsmore & Shohl LLP, bond counsel for the Bonds, in order to effect the issuance of the Bonds and the intent of this ordinance. The Village Fiscal Officer, or other appropriate officer of the Municipality, shall certify a true transcript of all proceedings had with respect to the issuance of the Bonds, along with such information from the records of the Municipality as is necessary to determine the regularity and validity of the issuance of the Bonds.

SECTION 6. This Village Council hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized in such manner and to such extent, if any, 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, including any expenditure requirements, investment limitations or rebate requirements. The Village Fiscal Officer 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 Municipality 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.

SECTION 7. The Bonds are hereby designated as “qualified tax-exempt obligations” to the extent permitted by Section 265(b)(3) of the Code. This Village Council finds and determines that the reasonable anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by the Municipality during the calendar year 2021 does not and the Board hereby covenants that, during such year, the amount of tax-exempt obligations issued by the Municipality and designated as “qualified tax-exempt obligations” for such purpose will not exceed \$10,000,000. The Village Fiscal Officer and other appropriate officers, and any of them, are authorized to take such actions and give such certifications on behalf of the Municipality with respect to the reasonably anticipated amount of tax-exempt obligations to be issued by the Municipality during the calendar year 2021 and with respect to such other matters as appropriate under Section 265(b)(3).

SECTION 8. The Village Fiscal Officer is hereby authorized to execute and deliver an agreement with the Paying Agent and Registrar for its services as paying agent, registrar and transfer agent for the Bonds in such form as such officer may approve, the execution thereof by such officer to be conclusive evidence of such authorization and approval.

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SECTION 9. The law firm of Dinsmore & Shohl LLP be and is hereby retained to provide bond counsel services to the Municipality in connection with the issuance of such Bonds, including preparation of the necessary authorization and related closing documents for the issuance, sale and delivery of the Bonds and, if appropriate, rendering its approving legal opinion in connection therewith to the Purchaser, and said firm shall be compensated by the Municipality for such services in accordance with a written agreement substantially the form presently on file with this Village Council. The Mayor, the Village Administrator, the Village Fiscal Officer and other appropriate officials of the Municipality, are each hereby separately authorized, without further action of this Village Council, to execute and deliver such agreement on behalf of the Municipality in substantially the form presently on file with this Village Council and to take any and all actions and to execute such other instruments that may be necessary or appropriate in order to effect the retention of such firm and the intent of this ordinance.

SECTION 10. All the outstanding Prior Bonds, or such lesser amount determined by the Village Fiscal Officer, shall be and hereby are ordered called for optional redemption according to their terms as soon as possible following the issuance of the Bonds. The Mayor, the Village Administrator and the Village Fiscal Officer, or any of them, are hereby separately authorized to execute and deliver an Escrow Trust Agreement with a bank or trust company as Escrow Trustee for the refunding defeasance of the Prior Bonds in such form as the officer or officers executing the same may approve, the execution thereof by such officer or officers to be conclusive evidence of such authorization and approval. Such officers are each hereby further separately authorized to subscribe for and purchase such United States Treasury obligations, including such obligations of the State and Local Government Series, as shall be required pursuant to such Escrow Trust Agreement and to pay for such obligations with the proceeds of the Bonds, and any such actions heretofore taken by such officers or the purchaser of the Bonds or bond counsel in connection with such subscription and purchase are hereby approved, ratified and confirmed.

SECTION 11. The Mayor, the Village Administrator, the Village Fiscal Officer, or any other officer, employee or agent of the Municipality, are each hereby separately authorized, alone or with others to apply for a municipal bond insurance policy with respect to some or all of the Bonds, and accept a commitment therefor, if the Purchaser should recommend the same, and any such actions heretofore taken are hereby approved, ratified and confirmed. The payment of the premium and expenses relating to any such insurance policy from the proceeds of the Bonds is hereby authorized if the Village Fiscal Officer determines in the Certificate of Award that the present value of the interest cost savings on the Bonds resulting from the insurance policy is greater than the premium to be charged for the insurance policy, which determination shall be conclusive.

SECTION 12. The Mayor, the Village Administrator, the Village Fiscal Officer, or any other officer, employee or agent of the Municipality, are each hereby separately authorized, alone or with others, to apply for a rating from one or more national rating services with respect to the Bonds, and any such actions heretofore taken are hereby approved, ratified and confirmed. The payment of the fees and expenses relating to any such rating from the proceeds of the Bonds is hereby authorized.

SECTION 13. If any provision of this ordinance or such Bonds, or any covenant, obligation or agreement contained herein or therein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein or therein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

SECTION 14. The Village Fiscal Officer is hereby directed to forward a certified copy of this ordinance and the Certificate of Award to the County Auditor of each county in which any part of the Municipality is located.

SECTION 15. It is found and determined that all formal actions of this Village Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this village council, and that all deliberations of this Village 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, including Section 121.22 of the Ohio Revised Code.

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SECTION 16. This ordinance is hereby declared to be an emergency measure for the reason that the public peace, health, safety and welfare of the inhabitants of the Municipality require the immediate issuance of the Bonds to provide for the orderly refunding of the Prior Bonds during this period of fluctuating interest rates and so that the Municipality and the users of the utility systems improved by the Project may enjoy the benefits of reduced interest costs resulting from the refunding of the Prior Bonds at the earliest possible time, and therefore, this ordinance shall take effect immediately upon its passage.


Brad Nicodemus, Mayor

DATE OF PASSAGE: 12-14-2020

EFFECTIVE DATE: 12-14-2020

ATTEST: 
Brian Bibler, Fiscal Officer

SPONSOR: HANKISON

APPROVED AS TO FORM: 
Jeffrey Feyko, Village Solicitor

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2020-44, and that a copy of the foregoing ordinance was certified this day to the county auditor of Fairfield County, Ohio.


Village Fiscal Officer

Dated: December 14, 2020

RECEIPT

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

County Auditor
Fairfield County, Ohio

Dated: December _____, 2020

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Village Fiscal Officer

Dated: December 14, 2020

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County Auditor
Fairfield County, Ohio

Dated: December 16, 2020

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Fairfield County, Ohio

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