

ORDINANCE NO. 12 - 24

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$4,355,000 OF BONDS FOR THE PURPOSE OF PAYING COSTS OF IMPROVING STREETS OF THE CITY BY RESURFACING, GRADING, DRAINING, PAVING AND MAKING OTHER RELATED IMPROVEMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has applied for financial assistance from the United States of America, acting through the Rural Housing Service, United States Department of Agriculture (the Federal Government or Original Purchaser), in order to provide funds to pay a portion of the costs of improving streets of the City by resurfacing, grading, draining, paving and making other related improvements (the Project); and

WHEREAS, the City has received a commitment from the Federal Government for a loan in the amount of \$4,355,000 (the Loan), proceeds of which will be applied by the City to the cost of the Project; and

WHEREAS, this Council has determined to issue the Bonds authorized in Section 1 hereof in order to evidence the Loan from the Federal Government for a portion of the cost of the Project on the favorable terms offered by the Federal Government; and

WHEREAS, the Federal Government has previously approved the form of this Ordinance providing for the purchase by it of the Bonds herein authorized; and

WHEREAS, the City Auditor, as fiscal officer of this City (the Fiscal Officer), has certified to this Council that the estimated life or period of usefulness of the improvements described in Section 1 is at least five years and the maximum maturity of the Bonds described in Section 1 is fifteen years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Port Clinton, County of Ottawa, Ohio, that:

Section 1. Authorized Principal Amount and Purpose. This Council determines that it is necessary and in the best interest of the City to issue bonds of the City as a single fully registered bond in one lot in the maximum principal amount of \$4,355,000 (the Bonds) for the purpose of paying a portion of the costs of improving streets of the City by resurfacing, grading, draining, paving and making other related improvements, including the payment of expenses related to the issuance of the Bonds.

Section 2. Denominations; Dating; Principal and Interest Payment and Prepayment Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in the denominations of \$100 or any whole multiple of \$100 in excess thereof, but in no case as to a particular maturity date exceeding the principal amount maturing on that date; provided that, if the Original Purchaser shall so request, a single fully registered Bond, in printed or typewritten form, may be issued with multiple maturities of principal (or mandatory sinking fund redemption requirements)

in amounts equal to the principal amounts of Bonds stated to mature (or be subject to mandatory sinking fund redemption) on the respective dates upon which principal shall be payable. The Bonds shall be dated as of the date of their issuance.

(a) Interest Rates and Interest Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on a 365 day per year basis) not to exceed 3.625%, as shall be determined by the Fiscal Officer in the certificate signed in accordance with Section 5 of this Ordinance (the Certificate of Award). Unless otherwise determined in the Certificate of Award, interest on the Bonds shall be payable annually on December 1 of each year (the Interest Payment Dates), commencing December 1, 2024, 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.

(b) Principal Payment Schedule. Unless otherwise specified by the Fiscal Officer in the Certificate of Award, the Bonds shall mature (or be subject to mandatory sinking fund redemption) on December 1 in the following years (the Principal Payment Dates) and principal amounts:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2024	\$230,000	2029	\$265,000	2034	\$320,000
2025	230,000	2030	275,000	2035	335,000
2026	240,000	2031	285,000	2036	345,000
2027	250,000	2032	295,000	2037	355,000
2028	255,000	2033	305,000	2038	370,000

; provided that, subject to the limitations set forth in Section 1 and subsection (c) below, the principal amount of Bonds maturing (or subject to mandatory sinking fund redemption) on one or more of the Principal Payment Dates may be increased or decreased as specified by the Fiscal Officer in the Certificate of Award, consistently with his determination of the best interest of and financial advantages to the City.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing (or subject to mandatory sinking fund redemption) on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other such fiscal year.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of the Bonds shall be payable when due upon presentation and surrender of the Bonds at the office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register (as defined in Section 4 hereof) at the close of business on the 15th day preceding that Interest Payment Date. In lieu of the payment

procedures set forth above, the Finance Director may enter into an agreement with the Federal Government to make such payments pursuant to a Preauthorized Debt Payment process.

Bonds maturing in any year may be made subject to mandatory sinking fund redemption and (unless prepaid as described below) may be redeemed pursuant to mandatory sinking fund redemption requirements (such Bonds being referred to herein as Term Bonds), at a redemption price of 100% of the principal amount redeemed plus interest accrued to the redemption date, on any Interest Payment Date or Interest Payment Dates (as selected by the Fiscal Officer in the Certificate of Award) in the principal amounts and in the year or years specified in the Certificate of Award. The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on the Term Bonds shall include amounts sufficient to redeem the principal amount of any Bonds subject to mandatory sinking fund redemption on the dates specified for such redemption.

(e) Prepayment. So long as the Bonds are held by the Original Purchaser, the principal thereof shall be subject to redemption by and at the sole option of the City, in whole or in part, at any time prior to maturity at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice to the Original Purchaser from the Fiscal Officer, given upon the direction of this Council by passage of an ordinance. That notice shall specify the redemption date and the principal amount of Bonds of each maturity to be redeemed and shall be given at least 30 days prior to the redemption date or such shorter period as shall be acceptable to the Original Purchaser. If less than all of the outstanding principal of that Bond is called for optional redemption at one time, the principal shall be called in inverse order of maturities and in a whole multiple of \$100. In the event that notice of redemption shall have been given to the Original Purchaser as provided above, the City shall pay to the Original Purchaser on or prior to the redemption date, moneys that will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the principal of the Bond or portions thereof to be redeemed. The principal of the Bond and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Section 2(d), upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, have been provided to the Original Purchaser on or before the redemption date, so as to be available therefor on that date, then from and after the redemption date the Bond or the portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so provided on or before the redemption date, the Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

Section 3. Execution and Authentication of Bonds. The Bonds shall be signed by the Mayor and the Fiscal Officer, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the authorized denominations and numbers as requested by the Original Purchaser and approved by the Fiscal Officer, shall be numbered as determined by the Fiscal Officer in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the provisions of Chapter 133 of the Revised Code, this Ordinance and the Certificate of Award.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar. The same person need not sign the certificate of authentication on all of the Bonds.

Section 4. Registration; Transfer and Exchange.

(a) Bond Registrar. The Fiscal Officer is hereby appointed to act as the paying agent, bond registrar, authenticating agent and transfer agent (herein referred to collectively as the Bond Registrar) for the Bonds. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the books and records necessary for the registration, exchange and transfer of the Bonds as provided herein (the Bond Register), at the office of the Bond Registrar. The person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond 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 City and the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security

and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for prepayment between the 15th day preceding the mailing of notice of Bonds to be prepaid and the date of that mailing, or (ii) any Bond selected for prepayment, in whole or in part.

Section 5. Sale of the Bonds. The Fiscal Officer is authorized to sell the Bonds at private sale to the United States of America, acting through the Rural Housing Service, United States Department of Agriculture (the Original Purchaser) at a purchase price, not less than 100% of the aggregate principal amount thereof on terms provided for herein as shall be determined by the Fiscal Officer in the Certificate of Award, plus accrued interest on the Bonds from their date to the Closing Date, and shall be awarded by the Fiscal Officer, in accordance with law, the provisions of this Ordinance and his determination of the best interests of and financial advantages to the City and its taxpayers, with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award.

The Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, the Fiscal Officer, the Director of Law, the Clerk of Council and other City officials, as appropriate, each are authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

So long as the Federal Government is the holder of the Bonds, the City will comply with all applicable regulations of the Federal Government relating to the Project and the Bonds and with the Federal Government's Form RD 1942-47 "Loan Resolution (Public Bodies)" relating thereto as adopted by this Council.

Section 6. Application of Bond Proceeds. The proceeds from the sale of the Bonds, except any premium and accrued interest, shall be paid into a separate fund of the City, which fund is hereby established pursuant to Section 5705.10 of the Revised Code, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including payment of financing costs (as defined in Section 133.01 of the Revised Code) incurred in connection with the issuance of the Bonds. The Fiscal Officer is authorized to provide for the payment of any such financing costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose. Any portion of the proceeds from the sale of the Bonds representing premium and accrued interest shall be paid into the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Bonds in the manner provided by law.

Section 7. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on 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 Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is 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 those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (the Code), or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Fiscal Officer, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting the favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates 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 and the tax status of the Bonds.

Section 9. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Ottawa County Auditor.

Section 10. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

Section 11. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Fiscal Officer is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 12. Repeal of Ordinance No. 11-24. Ordinance No. 11-24, passed by this Council on April 23, 2024, regarding a prior authorization of the issuance of bond anticipation notes for the purpose of paying costs of the improvements described in Section 1, is hereby repealed in its entirety.

Section 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that it is required to be immediately effective to enable the City to take advantage of the favorable terms of the Loan offered by the Federal Government and to timely enter into and meet its obligations under contracts for the Project, which is needed to eliminate existing and potential hazards to vehicular and pedestrian traffic in the City and thereby to promote public safety; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed: _____, 2024

President of Council

Attest: _____
Clerk of Council

Approved: _____, 2024

Mayor