

EMERGENCY ORDINANCE NO. 2019-28

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$2,680,000 PARK IMPROVEMENT BONDS, BY THE CITY OF MONROE, OHIO, AUTHORIZING AN OFFICIAL STATEMENT, AND DECLARING AN EMERGENCY.

WHEREAS, the fiscal officer of the City has estimated the life of the improvements hereinafter described as at least five (5) years, and certified the maximum maturity of the bonds is thirty (30) years; and

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

SECTION 1: That it is hereby declared necessary to issue bonds of the City, in the principal sum of not to exceed \$2,680,000, for the purpose constructing improvements to a municipal park, including the Bicentennial Commons park and paying certain costs related to the issuance of the bonds, together with other permissible costs under the Uniform Public Securities Law, including the cost of printing the bonds, expense of delivery of the bonds, service charges of the paying agent and registrar, legal services and obtaining an approving legal opinion.

SECTION 2: That bonds of the City shall be issued in the principal sum of not to exceed \$2,680,000, for the purposes aforesaid. Said bonds shall be of the denomination of \$5,000 or any integral multiple thereof, shall be numbered from 1 upward; shall be dated as of such date as is set forth in the certificate of award setting forth the final terms of the bonds (the "Certificate of Award"); and shall bear interest from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for, from their dated date. Said bonds shall bear interest payable semiannually on each June 1 and December 1, or such other dates as are set forth in the Certificate of Award, as determined by the Finance Director (after negotiation with the original purchaser of the bonds) and set forth in the Certificate of Award or in a bond purchase agreement, as applicable, which aggregate rate shall not be in excess of five percent (5.00%) per annum. Said bonds shall mature or be subject to mandatory sinking fund redemption, at the times and in the respective principal amounts as determined by the Finance Director and set forth in the Certificate of Award or in a bond purchase agreement, as applicable, within the limitations set forth in Chapter 133 of the Ohio Revised Code, without further action of this council. All bonds shall finally mature not later than December 1, 2049.

The bonds of such maturities as are designated by the City Manager and Finance Director shall be callable for redemption at the option of the City at such prices and times as are determined by the Finance Director and set forth in the Certificate of Award or in a bond purchase agreement, as applicable.

If less than all bonds which are payable by their terms on the same date are to be called, the particular bonds or portions of bonds payable on such same date and to be redeemed from such series shall be selected by lot by the Paying Agent and Registrar referred to in Section 3 below, in such manner as the Paying Agent and Registrar in its discretion may

determine; provided, however, that the portion of any bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof, and that, in selecting bonds for redemption, the Paying Agent and Registrar shall treat each bond as representing that number of bonds which is obtained by dividing the principal amount of such bond by \$5,000.

At least thirty (30) days before the redemption date of any bonds the Paying Agent and Registrar shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar, to be mailed, postage prepaid, to all registered owners of bonds to be redeemed in whole or in part at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure so to mail any such notice shall not affect the validity of the proceedings for such redemption. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive numbers or letters, if any, of such bonds to be redeemed and, in the case of bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. In case any bond is to be redeemed in part only, the notice of redemption which relates to such bond shall state also that on or after the redemption date upon surrender of such bonds, a new bond in principal amount equal to the unredeemed portion of such bonds will be issued.

On the date so designated for redemption, notice having been sent in the manner and under the conditions hereinabove provided and moneys for payment of the redemption price being held in separate accounts by the Paying Agent and Registrar for the holders of the bonds or portions thereof to be redeemed, the bonds or portions of bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such bonds or portions of bonds on such date, interest on the bonds or portions of bonds so called for redemption shall cease to accrue, and the holders or registered owners of such bonds or portions of bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and to receive bonds for any unredeemed portions of bonds.

In case part but not all of an outstanding bond shall be selected for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such bond to the Paying Agent and Registrar for payment of the principal amount hereof so called for redemption, and the city shall execute and the Paying Agent and Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the bond so surrendered a bond of the same series and maturity and bearing interest at the same rate.

SECTION 3: That said bonds shall be designated "Park Improvement Bonds" and shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of Article XVIII Section 3 of the Ohio Constitution, Chapter 133 of the Ohio Revised Code, the municipal charter and this ordinance. The bonds shall be executed by the City Manager and Finance Director, provided that the execution by either but not both of said officials may be by facsimile. The bonds may also bear the seal of the City, or a facsimile thereof,

and shall bear the manual authenticating signature of an authorized representative of such bank or trust company as is designated, without further action by this Council, by the Finance Director as paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the bonds. Such designation shall be evidenced by the execution and delivery of a bond registrar agreement by the Finance Director, which execution and delivery is hereby authorized. If the Finance Director does not designate a bank or trust company to act as Paying Agent and Registrar for the bonds, the Finance Director shall be the Paying Agent and Registrar and no authentication signature shall be required.

The principal amount of each bond shall be payable at the principal office of the Paying Agent and Registrar and interest thereon shall be made on each interest payment date to the person whose name appears on the record date (May 15 and November 15 for June 1 and December 1 interest, respectively, or as otherwise set forth in the Certificate of Award) on the bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his address as it appears on such registration records.

The bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any bond during the 15-day period preceding any interest payment date, 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 will be issued to the transferee in exchange therefor.

The City and the Paying Agent and Registrar may deem and treat the registered holder of the bonds as the absolute owner thereof for all purposes, and neither the City nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

SECTION 4: The City Manager and Finance Director are hereby authorized to combine these Bonds with three other bond issues authorized under separate legislation into a single consolidated issue of bonds for purposes of their sale as a single issue. If so combined, the consolidated issue of bonds shall be known as "Various Purpose Special Obligation Income Tax Revenue Bonds, Series 2019"; such consolidated issue shall be dated, mature and bear interest, be executed and be denominated in a manner consistent with the provisions of this ordinance relating to the bonds, authorized herein. The proceeds from the sale of such consolidated issue shall be apportioned, deposited and credited in accordance with Section 133.32 of the Revised Code to the respective purposes and funds in accordance with the amount of bonds authorized by this ordinance and the amount of bonds authorized by the ordinances providing for the issuance of not to exceed \$1,340,000 Real Estate Acquisition Bonds; not to exceed \$7,425,000 Building Improvement Bonds; and not to exceed \$515,000 Park Improvement Bonds.

SECTION 5: That the bonds shall be sold at such price (but not less than 97% of par) as is agreed upon by the City Manager and Finance Director and the purchaser. The proceeds from the sale of said bonds, except the premium and accrued interest thereon, shall be used for the

purposes aforesaid and for no other purpose; and the premium and accrued interest received from such sale shall be transferred to the bond retirement fund to be applied to the payment of the cost of issuance of, principal of and interest on the bonds in the manner provided by law.

The City Manager and Finance Director, or either of them, are hereby authorized and directed in the name of and on behalf of the City, to execute and deliver to the purchaser either a contract of purchase or bond purchase agreement between the City and the purchaser, which shall contain the final principal amount, rate or rates of interest and maturity schedules, redemption provisions, and such other terms and conditions concerning the bonds as may be agreed upon between the City and the purchaser. The Finance Director is hereby authorized to execute a Certificate of Award, setting forth any terms relating to the issuance of the bonds which are not specified in this Bond Legislation.

All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such financing statements, closing certificates, and other instruments or agreements as are, in the opinion of bond counsel, necessary to carry out the purposes of this ordinance.

SECTION 6: The bonds will be special obligations of the City, and to the extent provided in, and except as otherwise permitted under, the bonds will be equally and ratably payable solely from the City's municipal income tax authorized by Chapter 718 Ohio Revised Code and City Ordinance Nos. 93-06, 2004-07, 2005-08, 2005-38, 2011-08, 2015-40, 2017-18, and 2017-35 ("Income Tax") and are secured by a pledge of the Income Tax.

During the years while the bonds are outstanding, the City hereby covenants to levy and collect annually the Income Tax in a sufficient amount to pay principal of and interest on the bonds, and to meet debt service or bond service charges on other obligations of the City to be paid from the Income Tax. The City will appropriate and pay from the Income Tax, into the bond account or fund, amounts sufficient to pay principal of and interest on the bonds on each interest payment date.

The City Manager and/or Finance Director are hereby authorized, upon the advice and recommendation of Bradley Payne Advisors, LLC, the City's Municipal Advisor, to enter into additional covenants regarding the Bonds and the pledge of Income Taxes, including a coverage ratio limit on the issuance of additional bonds secured by a pledge of the Income Taxes. Such additional covenants shall be set forth in the Certificate of Award, which is incorporated herein and made a part hereof.

The bonds will not constitute general obligation debt of the City and will not constitute a debt or pledge of the full faith and credit of the City. The holders of the bonds have no right to have taxes, other than the Income Tax, levied by the City to pay principal of and interest on the bonds when due. Nothing in this authorizing ordinance will be construed as requiring the City to use or apply to the payment of principal of or interest on the bonds any funds or revenues from any source other than the Income Tax; however, nothing in this authorizing ordinance will be deemed to prohibit the City from using, to the extent that

it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions, or obligations of this authorizing ordinance or the bonds.

SECTION 7: That this council, for and on behalf of the City, hereby covenants that it will restrict the use of the proceeds, if any, of the bonds 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 bonds is authorized and directed to give an appropriate certificate on behalf of the City, 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 8: The funds derived from the sale of the bonds authorized by this ordinance become and they are hereby set aside and appropriated for the payment as described in this ordinance.

SECTION 9: That sums which are expended from the above appropriations and which are proper charges against and are repaid by any other department, any firm, person or corporation, shall be considered reappropriated for such original purpose; provided that the total appropriation as increased by any such repayment shall not be exceeded.

SECTION 10: That the Finance Director of the City of Monroe be and she is hereby authorized to draw her warrants of the City Treasury or Depository for payments from any of the foregoing appropriations upon receiving proper approval in accordance with the Charter, the Administrative Code, or other ordinances of the City of Monroe.

SECTION 11: The Manager and Director of Finance, or either of them, is hereby authorized to prepare and cause to be circulated a preliminary official statement with respect to the bonds in form and content satisfactory to them, and to prepare, execute and deliver to the original purchaser of the bonds a reasonable number of copies of an official statement which shall be deemed to be final for purposes of SEC Rule 15c2-12. The execution of the final official statement by either or both of such officers shall be conclusive evidence of its authorization and approval.

SECTION 12: This Council hereby authorizes and directs the City Manager and Finance Director to take any and all actions which may be necessary to issue the bonds in book-entry-only form or in such form as will render the bonds eligible for the services of the Depository Trust Company, New York, New York without further action by this Council, including execution of all documents necessary therefor.

SECTION 13: That the City Manager and Finance Director are hereby authorized to apply, if they deem it appropriate, for a rating on the bonds from either Standard & Poor's Corporation

or Moody's Investors Service, or both, and to pay the fee for said rating to the extent authorized by law and approved by bond counsel.

The City Manager and Finance Director are hereby further authorized to apply for and, in their discretion, to purchase a policy of municipal bond insurance from any nationally recognized municipal bond insurer, if such insurance will result in net interest cost savings to the City.

SECTION 14: This council hereby covenants and agrees that, to the extent that a continuing disclosure certificate (the "Continuing Disclosure Certificate") in connection with the issuance of the bonds is required by law, it will execute, comply with and carry out all of the provisions of such Continuing Disclosure Certificate. Failure to comply with any such provisions of the Continuing Disclosure Certificate shall not constitute a default on the bonds; however, any holder of the bonds may take such action as may be necessary and appropriate, including seeking specific performance, to cause this council to comply with its obligations under this section and the Continuing Disclosure Certificate.

SECTION 15: All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such financing statements, closing certificates and other instruments or agreements as are, in the opinion of bond counsel, necessary to carry out the purposes of this ordinance.

SECTION 16: That the firm of Dinsmore & Shohl LLP ("Dinsmore"), is hereby engaged as the City's "bond counsel" pursuant to the engagement letter of Dinsmore on file with the City.


SECTION 17: This council hereby finds and determines that all formal actions relative to the adoption of this ordinance were taken in an open meeting of this council, and that all deliberations of this council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

SECTION 18: That the Finance Director is hereby directed to forward a certified copy of this ordinance to the County Auditors of Warren and Butler Counties, Ohio.

SECTION 19: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, and further for the reason that Council desires to provide funds for the orderly financing of the project, including obtaining favorable rate of interest. Therefore. This measure shall take effect and be in full force from and after its passage.


PASSED: October 22, 2019

ATTEST:



Clerk of Council

APPROVED:



Mayor

First Reading: October 8, 2019