FIRST READING: 6.14.21
SECOND READING: 6.28.21
THIRD READING: 7.12.21

ORDINANCE NO. 45-21

BY: MICHAEL P. O'DONNELL

AN EMERGENCY ORDINANCE TO PROVIDE FOR THE ISSUANCE OF A PRINCIPAL AMOUNT NOT TO EXCEED $9,900,000 OF GENERAL OBLIGATION BOND ANTICIPATION NOTES OF THE CITY AND TO RETIRE OUTSTANDING BOND ANTICIPATION NOTES ISSUED TO PAY THE COSTS OF CONSTRUCTING, EQUIPPING, FURNISHING AND OTHERWISE IMPROVING A NEW POLICE FACILITY, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO.

WHEREAS: On September 29, 2019, the City of Rocky River, Ohio (the "City") issued its $6,750,000 Various Purpose General Obligation Bond Anticipation Notes, Series 2019 (the "Series 2019 Notes"), which was a consolidated note issuance for the purposes of (a) paying and reimbursing the City for a portion of the costs of constructing, equipping, furnishing and otherwise improving a new police facility, together with all necessary appurtenances ($6,000,000) (the "Police Facility Project"), and (b) paying and reimbursing the City, together with available money, for a portion of the costs of acquiring and equipping a new ladder fire truck ($750,000) (the "Fire Truck Project"); and

WHEREAS: On September 23, 2020, the City retired the portion of the Series 2019 Notes issued to finance the Fire Truck Project with available money of the City and issued its $9,900,000 Police Facility Project General Obligation Bond Anticipation Notes, Series 2020 (the "Series 2020 Notes") for the purposes of (a) retiring the portion of the Series 2019 Notes issued to finance the Police Facility Project, and (b) paying additional costs of the Police Facility Project; and

WHEREAS: The Series 2020 Notes mature on September 23, 2021; and

WHEREAS: This Council finds and determines that the City should retire the Series 2020 Notes with the proceeds of the notes issued in anticipation of bonds described below, together with other money of the City; and

WHEREAS: The Director of Finance, as fiscal officer for the City, has certified to this Council that the estimated life or period of usefulness of the Police Facility Project is at least five years and has further certified that the maximum maturity of the bonds in anticipation of which the notes will be issued is 30 years and that the maximum maturity of notes issued in anticipation of those bonds is 20 years from the date of issuance of the notes originally issued for the Police Facility Project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, CUYAHOGA COUNTY, OHIO THAT:

Section 1. It is declared necessary to issue bonds (the "Bonds") of the City in a principal amount not to exceed $9,900,000 to (a) pay or reimburse the City for all or a portion of the costs of the Police Facility Project, and (b) finance costs of issuance of the Bonds.

Section 2. The Bonds shall be dated approximately September 1, 2022, shall bear interest at the estimated average rate of 4% per annum, payable semi-annually until the principal sum is paid, and shall mature in 30 annual installments after their issuance. The first interest payment and the first principal payment on the Bonds are estimated to be December 1, 2022.

Section 3. It is determined that notes (the "Notes") in a principal amount not to exceed $9,900,000 shall be issued in anticipation of the issuance of the Bonds for the purpose of retiring the Series 2020 Notes. The Notes shall be sold to the Original Purchaser (as defined below) and shall bear interest at the rate fixed by the Director of Finance in his certificate awarding the Notes (the "Final Terms Certificate"), provided that such rate shall not exceed 4% per annum, payable at maturity. The Notes shall be dated their date of issuance and shall mature on a date that is between six months and one year, inclusive, from the date of issuance, as determined by the Director of Finance in the Final Terms Certificate. The Notes shall not be subject to redemption by the City at any time prior to maturity, unless the Original Purchaser requests that the Notes provide for such redemption, in which case provision shall be made for calling the Notes for redemption upon 10 days written notice to the Paying Agent (as defined below) for the Notes or to the Original Purchaser if the Director of Finance is the Paying Agent. In addition, the Notes shall be issued in denominations of $100,000 or any whole multiple of $1,000 in excess of $100,000, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Notes shall be payable as to both principal and interest at the office of the Director of Finance, or at a bank or trust company designated by the Director of Finance (individually or collectively, the "Paying Agent"), without deduction for exchange, collection or service charge; and shall be payable in lawful money of the United States of America.

Section 4. Unless otherwise designated in the Final Terms Certificate, the Notes shall be designated "Police Facility Project General Obligation Bond Anticipation Notes, Series 2021." The Notes must contain a summary statement of purposes encompassing the purpose for which the Notes and any other notes are issued, will be issued in the numbers and denominations requested by the Original Purchaser, subject to the provisions of Section 3 of this Ordinance and must be executed by the Mayor and the Director of Finance of the City, provided that one or both such signatures may be a facsimile signature. In the absence of the Mayor, the Notes shall be executed by the President of Council, and in the absence of the Director of Finance, the Notes shall be executed by any designee of the Director of Finance.

The Notes, pursuant to the terms set forth below, may also be issued to a Depository (as defined below) for use in a book-entry system (as defined below). The Director of Finance is authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the authentication, immobilization, and transfer of the Notes, including arrangements for the payment of principal and interest by wire transfer, after determining that the execution thereof will not endanger the funds or securities of the City, which determination shall be conclusively evidenced by the signing of any such agreement.

If and as long as a book-entry system is utilized, (i) the Notes shall be issued in the form of one note in the name of the Depository or its nominee, as owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book-entry form shall be shown by a book entry on the system maintained and operated by the Depository and its Participants (as defined below), and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Council of the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the Director of Finance may attempt to have established a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements he deems necessary, shall permit withdrawal of the Notes from the Depository, and authenticate and deliver note certificates in bearer or registered form, as he determines, to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of Council action or inaction, of those persons requesting such issuance.

As used in this Section and this Ordinance:

"Book-entry form" or "book-entry system" means a form or system under which (i) the beneficial right to principal and interest may be transferred only through a book entry and (ii) physical notes are issued only to a Depository or its nominee as owner, with the notes "immobilized" in the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining a book-entry system to record beneficial ownership of the right to principal and interest, and to effect transfers of notes, in book-entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book-entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

Section 5. The Notes shall be sold at a private sale to Fifth Third Securities, Inc., as the original purchaser (the "Original Purchaser"), and awarded by the Director of Finance at a purchase price not less than 97% of their principal amount, at an interest rate not exceeding that specified in Section 3 of this Ordinance and which purchase price and interest rate the Director of Finance determines is in accordance with the best interests of the City; and the Director of Finance is authorized and directed to retain the services of Calfee, Halter & Griswold LLP, Bond Attorneys, Cleveland, Ohio and to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price. The proceeds from the sale of the Notes shall be paid into the proper fund and, pursuant to the provisions of Section 133.15(B) of the Ohio Revised Code, are deemed appropriated for and shall be used for the purpose for which the Notes are being issued under the provisions of this Ordinance and to pay those certain costs set forth in Section 133.15(B) of the Ohio Revised Code. Any premium received by the City and accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Notes in the manner provided by law.

If, in the judgment of the Director of Finance, a preliminary official statement of the City relating to the original issuance of the Notes, is in the best interest of the City, such a preliminary official statement is authorized to be prepared and distributed. The Mayor and the Director of Finance, and either one of them, are authorized and directed to complete and sign, on behalf of the City and in their official capacities, an official statement, with such modifications, changes and supplements from the preliminary official statement as those officers or any one of them shall approve or authorize. Those officers are authorized, on behalf of the City and in their official capacities, to (i) determine, and to certify or otherwise represent, when the official statement is "deemed final" (except for permitted omissions) by the City as of its date or is a final official statement for purposes of SEC Rule 15c2-12(b)(1), (3) and (4), (ii) use and distribute, or authorize the use and distribution of, those official statements and any supplements thereto in connection with the original issuance of the Notes, and (iii) complete and sign those official statements as so approved together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements.

If, in the judgment of the Director of Finance, the filing of an application for a rating on the Notes by one or more nationally-recognized rating agencies is in the best interest of and financially advantageous to the City, the Director of Finance is authorized to prepare and submit those applications, to provide to each such agency such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Section 6. The City covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary so that the Notes will not constitute arbitrage bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for the issuance of the Notes shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Notes.

The City covenants that (a) it will take or cause to be taken such actions which may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, and (b) it will not take or permit to be taken any actions which would adversely affect that exclusion, and that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Director of Finance and other appropriate officers of the City are authorized and directed to take any and all actions, make calculations and rebate payments, and take or give reports and certifications as may be appropriate to assure such exclusion of that interest.

Section 7. The City represents that all conditions are met for treating the Notes as "qualified tax-exempt obligations" and that the Notes are not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation, by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code and to the extent any portion of the notes is not so deemed designated, the Director of Finance may so designate such portion in the Final Terms Certificate. Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Notes as "qualified tax-exempt obligations," it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Notes are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

Section 8. If requested by the Original Purchaser, the Director of Finance is and directed to execute a continuing disclosure certificate (the "Disclosure Certificate") dated the date of delivery of the Notes and delivered to the Original Purchaser for the benefit of the holders of the Notes (the "Holders") and to assist the Original Purchaser in complying with SEC Rule 15c2-12(b)(5), which Disclosure Certificate shall set forth the City's undertaking to provide annual reports and notices of certain events as may be required. The City covenants and agrees that it will comply with and carry out all of the provisions of the Disclosure Certificate. Failure of the City to comply with the Disclosure Certificate shall not be considered an event of default; however, any Holder may take such actions as may be necessary and appropriate to cause the City to comply with its obligations under this Section, if a Disclosure Certificate is required.

Section 9. The Notes shall be full general obligations of the City and the full faith and credit of the City are pledged for the prompt payment of the same. The par value to be received from the sale of the bonds anticipated by the Notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used only for the retirement of the Notes at maturity together with the interest on the Notes, and is pledged for such purpose.

Section 10. During the years that the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually at the rate not less than that which would have been levied if bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by Ohio law, 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 said years are certified, extended and collected. In addition, this tax shall be placed before and in preference to all items and for the full amount thereof. The funds derived from the tax levies required by this Ordinance shall be placed in a separate and distinct fund which, together with the interest collected on the same, shall be irrevocably pledged for the payment of the principal of and interest on the Notes or the bonds in anticipation of which they are issued, when and as the same fall due; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Notes and bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of the revenues so available and appropriated.

Section 11. It is determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City, will have been done and performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Notes.

Section 12. The Clerk of Council is directed to forward or cause to be forwarded a certified copy of this Ordinance to the County Fiscal Officer of Cuyahoga County and to secure a receipt therefor.

Section 13. The Mayor, Director of Finance, Law Director and the Clerk of Council, as appropriate, are each authorized and directed to prepare, execute and deliver any transcript certificates, financial statements and other documents, agreements, representations and instruments and to take such actions as are necessary or appropriate to consummate the issuance of the Notes as provided in this Ordinance.

Section 14. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all such 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 the City's Charter and Codified Ordinances and applicable provisions of Section 121.22 of the Ohio Revised Code.

Section 15. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety and welfare of the City, and for further reason that the immediate issuance and sale of the Notes is necessary to provide funds to retire the Series 2020 Notes and preserve the credit of the City, and provided it receives the affirmative vote of two-thirds of all members of Council, this Ordinance shall take effect and be in force immediately upon its passage by the Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: July 12th, 2021

JAMES W. MORAN
PRESIDENT OF COUNCIL

PRESENTED TO MAYOR: July 12th, 2021

APPROVED: July 12th, 2021

ATTEST:

SUSAN G. PEASE
CLERK OF COUNCIL

PAMELA E. BOBST
MAYOR

YEAS: 6

NAYS: 0

ABSENT: 1

City of Rocky River } ss
County of Cuyahoga }

THE UNDERSIGNED CLERK OF THE COUNCIL OF THE CITY OF ROCKY RIVER, OHIO DOES HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 45-21 ADOPTED BY THE COUNCIL OF SAID CITY ON THE 12th DAY OF July, 20 21 THAT THE PUBLICATION OF SUCH ORDINANCE HAS BEEN MADE AND CERTIFIED OF RECORD ACCORDING TO LAW; THAT NO PROCEEDINGS LOOKING TO A REFERENDUM UPON SUCH ORDINANCE HAVE BEEN TAKEN; THAT SUCH ORDINANCE AND THE CERTIFICATE OF PUBLICATION THEREOF, ARE OF RECORD IN ORDINANCE RECORD NO. 45-21

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 12th DAY OF July, 20 21.

CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

I, the undersigned clerk of council of the city of Rocky River, State of Ohio, do hereby certify that publication of the foregoing ordinance was duly made by posting a true copy thereof in the lobby of the Rocky River City Hall, in accordance with the charter of Rocky River, commencing on the 12th day of July, 20 21.

Clerk of Council of the City of Rocky River, Ohio

FISCAL OFFICER'S CERTIFICATE

City of Rocky River, Ohio
June 9, 2021

TO THE COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

The undersigned, as fiscal officer of the City of Rocky River, Ohio (the "City"), as defined in Section 133.01 of the Ohio Revised Code, certifies as follows in connection with your proposed issue of general obligation bonds and bond anticipation notes in a principal amount not to exceed $9,900,000 to (a) pay or reimburse the City for all or a portion of the costs of constructing, equipping, furnishing and otherwise improving a new police facility, together with appurtenances thereto (the "Police Facility Project"), and (b) pay issuance costs that:

1. The estimated life or period of usefulness of the Police Facility Project is at least five years.

2. The maximum maturity of the bonds, calculated in accordance with the provisions of Section 133.20(C) of the Revised Code, is 30 years, provided that if notes in anticipation of such bonds will be outstanding later than the last day of December of the fifth year following the year of issuance of the original notes, the period in excess of five years shall be deducted from the latest permitted maturity of the bonds.

3. The maximum maturity of the notes now proposed to be issued in anticipation of the issuance of the bonds is 20 years from the date of issuance of the original notes.

Michael A. Thomas

Digitally signed by Michael A. Thomas
Date: 2021.06.09 11:23:38 -04'00'

Director of Finance
City of Rocky River, Ohio