

ORDINANCE NO. 044-19

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF \$500,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF THE CONSTRUCTION OF A MUNICIPAL SWIMMING POOL WITH RELATED FACILITIES AND APPURTENANCES, INCLUDING THE DEMOLITION OF EXISTING FACILITIES, TOGETHER WITH ALL NECESSARY AND RELATED APPURTENANCES THERETO

WHEREAS, this Council has requested that the Finance Director, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 1 and the estimated maximum maturity of the Bonds described in Section 1; and,

WHEREAS, the Finance Director has certified to this Council that the estimated life or period of usefulness of the Improvement described in Section 1 is at least five (5) years, the estimated maximum maturity of the Bonds described in Section 1 is at least twenty (20) years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is two hundred forty (240) months; **Now Therefore**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, HENRY COUNTY, OHIO, THAT:

Section 1. That, it is necessary to issue bonds of this City in the aggregate principal amount of \$500,000 (the "*Bonds*") for the purpose of paying the costs of the construction of a municipal swimming pool with related facilities and appurtenances, including the demolition of existing facilities, together with all necessary and related appurtenances thereto (the "*Improvement*").

Section 2. That, the Bonds shall be dated approximately August 1, 2020, shall bear interest at the now estimated rate of 5.50% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty (20) annual principal installments on December 1 of each year and in such amounts that the total principal and interest payments on the Bonds, in any fiscal year in which principal is payable, shall be substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2021, and the first principal payment of the Bonds is estimated to be December 1, 2021.

Section 3. That, it is necessary to issue and this Council determines that notes in the aggregate principal amount of \$500,000 (the "*Notes*") shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 1 and to pay the costs of the improvement and any financing costs. The Notes shall be dated the date of issuance and shall mature not more than one (1) year following the date of issuance; *provided* that the Finance Director shall establish the maturity date in the certificate awarding the Notes in accordance with Section 6 of this Ordinance (the "*Certificate of Award*"). The Notes shall bear interest at a rate or rates not to exceed 4.00% per year (computed on the basis of a 360-day year consisting of

twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate or rates of interest on the Notes shall be determined by the Finance Director in the Certificate of Award in accordance with Section 6 of this Ordinance.

Section 4. That, the debt charges on the Notes shall be payable in lawful money of the United States of America at the office of the Finance Director (the “*Paying Agent*”).

Section 5. That, the Notes shall be signed by the City Manager and Finance Director, in the name of the City and in their official capacities; *provided* that one of those signatures may be a facsimile. The Notes shall also be countersigned by the Mayor, *provided* that the signature of the Mayor may be a facsimile. The Notes shall be issued in minimum denominations of \$100,000 (and may be issued in denominations in such amounts in excess thereof as requested by the original purchaser and approved by the Finance Director) and with numbers as requested by the original purchaser and approved by the Finance Director. The entire principal amount may be represented by a single note, which shall not have coupons attached, shall be numbered as determined by the Finance Director and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance.

Section 6. That, the Notes are offered at a purchase price, not less than par, as shall be determined by the Finance Director, plus any accrued interest, to the Treasury Investment Board of the City for investment under Section 731.56 of the Ohio Revised Code. Any Notes not purchased by the Treasury Investment Board shall be sold at not less than 100% of par plus accrued interest at private sale by the Finance Director in accordance with law and the provisions of this Ordinance. The Finance Director shall sign the Certificate of Award referred to in Section 3 fixing the interest rate or rates which the Notes shall bear and evidencing that sale to the original purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price. The City Manager, the Finance Director, the City Law Director, the Clerk of Council and other City officials, as appropriate, and any person serving in an interim or acting capacity for any such official, are each 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. The Finance Director is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Ohio Revised Code.

Section 7. That, the proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 8. That, the par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent

necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. That, during the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. 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 Notes or the Bonds when and as the same fall due.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Notes or the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and the laws of the State of Ohio and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Notes or the Bonds.

Section 10. That, this Council declares that the City reasonably expects that capital and other expenditures related to the Improvement described in Section 1 will be reimbursed with the proceeds of tax-exempt securities to be hereafter issued. The maximum principal amount of tax-exempt securities to be hereafter issued for the Improvement is \$500,000.

Section 11. That, the Clerk of Council is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the County Auditor of Henry County, Ohio.

Section 12. That, the legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes and securities issued in renewal of the Notes and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal

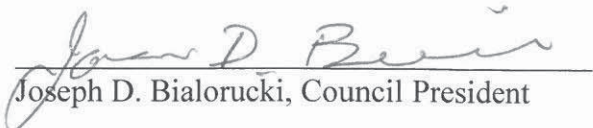
corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Finance Director is authorized and directed to make 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. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 13. That, this Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes 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 Notes 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 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

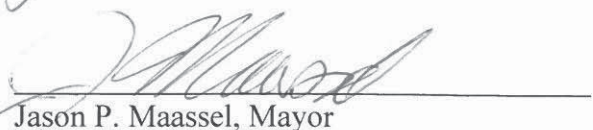
Section 14. That, this Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 15. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow the demolition and construction process to begin in time to meet the seasonal requirements imposed on the demolition and construction process; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper budgeting and payment related to the demolition and construction process, and for further reasons as stated in the Preamble hereof.

Passed: July 1, 2019


Joseph D. Bialorucki, Council President

Approved: July 1, 2019


Jason P. Maassel, Mayor

VOTE ON PASSAGE 5 Yea 0 Nay 0 Abstain

Attest:

Roxanne Dietrich
Roxanne Dietrich, interim Clerk of Council

I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 044-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City on the 8th day of July, 2019; and I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon, Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Roxanne Dietrich
Roxanne Dietrich, interim Clerk of Council

CERTIFICATION OF RECORDS

I, Roxanne Dietrich, interim Clerk of Council, for the City of Napoleon, Ohio, do hereby certify and attest that this document to be a **True and Correct** copy of Ordinance Number 044-19, passed _____, 2019.

Roxanne Dietrich, interim Clerk of Council

Date

FISCAL OFFICER'S CERTIFICATE

To the City Council of the City of Napoleon, Ohio:

As fiscal officer of the City of Napoleon, Ohio, I certify in connection with your proposed issue of notes in the aggregate principal amount of \$500,000 (the "*Notes*"), to be issued in anticipation of the issuance of bonds (the "*Bonds*") for the purpose of paying the costs of the construction of a municipal swimming pool with related facilities and appurtenances, including the demolition of existing facilities, together with all necessary and related appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Ohio Revised Code, is at least twenty (20) years, being my estimate of the life or period of usefulness of that Improvement.
3. The maximum maturity of the Notes is two hundred forty (240) months.

Dated: July 1, 2019

Christine R Pedducia
Acting Finance Director
City of Napoleon, Ohio