

ORDINANCE NO. 018-21

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,100,000, FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE CITY'S PUBLIC ROADWAYS, INCLUDING AMERICAN ROAD AND OAKWOOD AVENUE BETWEEN CERTAIN TERMINI, BY RECONSTRUCTING, CURBING AND PAVING, INSTALLING STORM WATER IMPROVEMENTS, ADJUSTING WATERLINES AND SANITARY SEWER COMPONENTS, AND ACQUIRING ANY INTERESTS IN REAL PROPERTY, TOGETHER WITH ALL RELATED APPURTENANCES THERETO, AUTHORIZING RELATED SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS, AND DECLARING AN EMERGENCY

WHEREAS, this City Council has heretofore determined to reconstruct American Road and Oakwood Avenue between certain termini to provide for the safe flow of traffic in connection with a commercial development within the City and otherwise promote the public purpose of creating or preserving jobs and employment opportunities within the City and generally improve the economic welfare of the people of the City; and,

WHEREAS, this City Council has also heretofore determined that the reconstruction of American Road and Oakwood Drive will encourage commercial development and promote the public purpose of encouraging the safe and productive development and use of urban land; and,

WHEREAS, consistent with those determinations and acting pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, this City Council passed the TIF Ordinance (as hereinafter defined) which generally (a) declared improvements to certain parcels of real property located in the City to be a public purpose, thereby exempting those improvements from real property taxation for a period of time, (b) specified certain public infrastructure improvements, including the improvements identified in Section 2, to be made that would directly benefit those parcels, (c) provided for the making of service payments in lieu of taxes by the owners of those parcels, and (d) established the TIF Fund (as hereinafter defined) into which a portion of the TIF Revenues (as hereinafter defined) would be deposited; and,

WHEREAS, this City Council has further determined that the construction and installation of the improvements described in Section 2 will facilitate additional commercial development within the City and foster and promote the public purposes described above and that the City should issue special obligations payable from the TIF Revenues to finance the costs of those improvements; **Now Therefore**,

BE IT ORDAINED by the Council of the City of Napoleon, Henry County, Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

“*Act*” means, collectively, the Constitution of the State of Ohio, the Ohio Revised Code, the Charter of the City and this Ordinance.

“*Additional Bonds*” means any additional bond anticipation notes or bonds of the City which may be subsequently issued and payable solely from the TIF Revenues on parity with the Bonds.

“*Authorized Denominations*” means the minimum denominations or any integral multiple in excess thereof as set forth in the Certificate of Award.

“*Bond Proceedings*” means, collectively, this Ordinance, the Certificate of Award and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders of the Bonds.

“*Bond Register*” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“*Bond Registrar*” means the Finance Director as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have been designated by the City and, thereafter, “*Bond Registrar*” shall mean the successor Bond Registrar.

“*Bonds*” means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

“*Certificate of Award*” means the certificate authorized by Section 6, to be executed by the Finance Director, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*City*” means the City of Napoleon, Ohio.

“*City Law Director*” means the City Law Director of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Manager*” means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

“*Clerk of Council*” means the Clerk of Council of the City Council or any person serving in an interim or acting capacity with respect to that office.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Finance Director” means the Finance Director of the City or any person serving in an interim or acting capacity with respect to that office.

“Financing Costs” shall have the meaning given in Section 133.01 of the Ohio Revised Code.

“Interest Payment Dates” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“JVSD” means the Four County Career Center.

“Mandatory Redemption Date” shall have the meaning set forth in Section 3(b).

“Mandatory Sinking Fund Redemption Requirements” shall have the meaning set forth in Section 3(e)(i).

“Principal Payment Dates” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years as determined in the Certificate of Award; *provided* that in no case shall the final Principal Payment Date of the Bonds exceed December 31 of the thirtieth year following the year of issuance of the Bonds, all of which determinations shall be made by the Finance Director in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“School Districts” means, collectively, the Napoleon Area City School District and the Liberty Center Local School District.

“Serial Bonds” means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“State” means the State of Ohio.

“Term Bonds” means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

“TIF Fund” means the Oakwood/American Napoleon Municipal Public Improvement Tax Increment Equivalent Fund as created by the TIF Ordinance.

“TIF Ordinance” means Ordinance No. 056-20 passed by the City on December 7, 2020.

“TIF Revenues” means (a) the service payments in lieu of taxes and property tax rollback payments to be distributed to the City pursuant to the TIF Ordinance for deposit into the TIF Fund less (b) the payments (if any, and only to the extent not otherwise paid by the Henry County Treasurer in accordance with the TIF Ordinance) required to be paid to the School Districts and the JVSD.

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 2. Authorized Principal Amount and Purpose; Application of Proceeds. This City Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$1,100,000 (the “Bonds”) for the purpose of paying the costs of improving the City’s public roadways, including American Road and Oakwood Avenue between certain termini, by reconstructing, curbing and paving, installing storm water improvements, adjusting waterlines and sanitary sewer components, and acquiring any interests in real property, together with all related appurtenances thereto (the “Improvement”). The Bonds shall be issued pursuant to the Act and the Certificate of Award.

The principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be an amount determined by the Finance Director in the Certificate of Award to be the principal amount of Bonds that is required to be issued at this time for the purpose stated in this Section 2, taking into account the costs of the Improvement, the estimates of the Financing Costs and the interest rates on the Bonds.

The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any municipal advisor and paying agent and all other Financing Costs and costs incurred incidental to those purposes. Any portion of those proceeds received by the City representing premium or accrued interest shall be paid into the TIF Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date. The Finance Director is hereby authorized to prepare one bond representing the aggregate principal amount of Bonds maturing on all of the Principal Payment Dates, all as set forth in the Certificate of Award. The Bonds may be issued as (i) a single fully registered Serial Bond with principal installments payable in amounts equal to the principal amounts of the Bonds stated to mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the respective Principal Payment Dates or (ii) one or more fully registered Term Bonds with Mandatory Sinking Fund Redemption Requirements in amounts equal to the principal amount of the Bonds stated to mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the respective Principal Payment Dates.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months) as shall be determined by the Finance Director, subject to subsection (c) of this Section 3, in the

Certificate of Award as a fair market rate or rates for such Bonds at the time of the sale. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates 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. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Finance Director, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the Finance Director's determination of the best interest of and financial advantages to the City, the Finance Director shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a "*Mandatory Redemption Date*") and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The net interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or Mandatory Sinking Fund Redemption Requirements of those principal amounts of Bonds shall not exceed 5.00%.

(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 and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the main office of the Bond Registrar; *provided, however*, to the extent that the Bonds are represented by a single Term Bond as permitted by this Section 3, principal of the Bonds which is redeemed pursuant to a Mandatory Sinking Fund Redemption Requirement shall be payable when due without prior presentation or surrender of the Bond but redemption of such principal shall be duly endorsed on the Bond Register, and in the case of the final principal payment due hereunder, surrender of the Bond at the main 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 at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the “*Mandatory Sinking Fund Redemption Requirements*”).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Finance Director, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Finance Director, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Finance Director, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Finance Director, for Term Bonds stated to mature on the same Principal Payment Date

and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in Authorized Denominations, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Finance Director in the Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Finance Director to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in Authorized Denominations, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the Authorized Denominations are then outstanding, each Authorized Denomination unit of principal thereof shall be treated as if it were a separate Bond of the Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of an Authorized Denomination unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the Authorized Denomination unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15th day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Section 3(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, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and 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 available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those 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. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Finance Director, 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 also be countersigned by the Mayor, *provided* that the signature of the Mayor may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as determined by the Finance Director, shall be numbered as determined by the Finance Director 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 Act and the Certificate of Award.

The Finance Director is hereby authorized to designate in the Certificate of Award the Finance Director or a bank or trust company authorized to do business in the State to act as the initial Bond Registrar. The Finance Director shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Certificate of Award from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

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 and approved by the Finance Director on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its main office. Subject to the provisions of Section 3(d), 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 5. 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 designated corporate trust 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 main 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 or 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 redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

Section 6. Sale of the Bonds to the Original Purchaser. The Bonds are hereby offered at par plus accrued interest, if any, to the Treasury Investment Board of the City for investment under Section 731.56 of the Ohio Revised Code and with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law, the provisions of this Ordinance.

The Finance Director 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 City Manager, the Finance Director, the City Law Director, the Clerk of Council and other City officials, as appropriate, 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 actions of the Mayor, the City Manager, the Finance Director, the City Law Director, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

Section 7. Security for and Covenants Relating to Bonds.

(a) The Bonds, together with any Additional Bonds that may be issued hereafter on a parity therewith, are special obligations of the City, and the principal and interest on the Bonds are payable solely from, and such payment is secured by a pledge of and lien on, those TIF Revenues established by and as provided in this Ordinance which are on deposit in the TIF Fund, as described below.

The TIF Fund was heretofore created by the City a separate fund and the TIF Revenues shall be deposited therein in accordance with the following provisions. The City hereby covenants and agrees that it will deposit all TIF Revenues into TIF Fund. Moneys in the TIF Fund shall be used solely and exclusively (i) to pay principal of and interest on the Bonds and any hereafter designated Additional Bonds, all when due and (ii) for any other purposes permitted by law.

The City hereby covenants and agrees that so long as Bonds are outstanding, it will *first* appropriate TIF Revenues sufficient in amount to pay principal and interest when due and *second* appropriate TIF Revenues for any other lawful purpose; *provided, however*, the payments due hereunder and under the Bonds are payable solely from TIF Revenues. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation. The Bonds do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the City, and the owners of the Bonds have no right to have taxes levied by the City for the payment of principal and interest on the Bonds.

Nothing herein shall be construed as requiring the City to use or apply to the payment of principal and interest on the Bonds any funds or revenues from any source other than TIF Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, 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 Ordinance or of the Bonds.

(b) The City will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions to be performed on its part under this Ordinance and the Bonds and under all proceedings of this City Council pertaining thereto. The City represents that (i) it is, and upon delivery of the Bonds covenants that it will be, duly authorized by the Constitution and laws of the State including particularly and without limitation the Act, to issue the Bonds and to provide the security for payment of the debt service charges in the manner and to the extent set forth herein and in the Bonds; (ii) all actions on its part for the issuance of the Bonds have been or will be taken duly and effectively; and (iii) the Bonds will be valid and enforceable special obligations of the City according to their terms. Each obligation of the City required to be undertaken pursuant to this Ordinance and the Bonds is binding upon the City, and upon each officer or employee of the City as may from time to time have the authority under law to take any action on behalf of the City as may be necessary to perform all or any part of such obligation, as a duty of the City and of each of those officers and employee resulting from an office, trust or station within the meaning of Section 2731.01 of the Ohio Revised Code, providing for enforcement by writ of mandamus.

Section 8. Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds is authorized and approved, and the Finance Director is authorized to provide for the payment of any such amounts and 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.

Section 9. Additional Bonds. The City shall have the right from time to time to issue Additional Bonds on a parity with the Bonds, which Additional Bonds shall be payable solely from the TIF Revenues, and such payment shall be secured by a pledge of and a lien on the TIF Revenues as provided by the Act and by an ordinance passed by this City Council authorizing the issuance of those Additional Bonds. Before any Additional Bonds are issued, the City shall be required to furnish a certificate of the Director of Finance showing that the aggregate amount of TIF Revenues received during the fiscal year immediately preceding the issuance of those Additional Bonds is at least equal to 150% of the largest amount required to be paid in any succeeding calendar year to meet estimated interest and principal maturities of the Bonds, any parity obligations delivered after the Bonds, and those Additional Bonds, or in the event that the

Additional Bonds are to be issued as bond anticipation notes, the largest amount required to be paid in any succeeding calendar year to meet the estimated interest and principal maturities of the bonds anticipated by those bond anticipation notes (the “*Coverage Test*”).

Junior lien or other subordinate bonds payable from the TIF Revenues may be issued without limitation.

The Additional Bonds shall bear such designation as may be necessary to distinguish them from the Bonds or other Additional Bonds having different provisions and shall have maturities, interest rates, interest payment dates, redemption provisions, denominations and other provisions as provided in the ordinances hereafter adopted providing for the issuance of the Additional Bonds; *provided, however*, that those terms and provisions shall not be inconsistent with this Ordinance to the extent it governs the issuance and terms of Additional Bonds.

Section 10. Supplemental Appropriations and Transfers. The annual appropriation measure passed in Ordinance No. 064-20 for the fiscal year ending December 31, 2021 shall be supplemented (Supplement No. 3). Further, pursuant to Section 5705.14 of the ORC and this Ordinance, the Finance Director is hereby authorized and directed to transfer monies, (Transfer No. 3), among the various funds on an as needed basis in Fiscal Year 2021.

Section 11. Bond Counsel. 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 Bonds 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 of Ohio, 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 Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Municipal Advisor. The services of Sudsina & Associates, LLC., as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, 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 of Ohio, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory 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 Bonds, if available, and otherwise from available moneys in the General Fund.

Section 13. Satisfaction of Conditions for Bond Issuance. This City 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 Bonds in order to make them legal, valid and binding special 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 no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to the Act and the Certificate of Award and other authorizing provisions of law.

Section 14. Compliance with Open Meeting Requirements. This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City 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. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety in the City and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds, which is necessary to enable the City to timely execute one or more contracts to facilitate the construction of the Improvement; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed: May 17, 2021


Joseph D. Bialorucki, Council President

Approved: May 17, 2021


Jason P. Maassel, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:


Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 018-21 was duly published in the Northwest Signal, a newspaper of general circulation in

said City on the 25th day of May, 2021; 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, Clerk of Council

CERTIFICATION OF RECORDS

I, Roxanne Dietrich, Clerk of Council, of the City of Napoleon, Ohio, do hereby certify and attest that this document to be a **True and Correct** copy of Ordinance Number 018-21, passed May 17, 2021.

Roxanne Dietrich
Roxanne Dietrich, Clerk of Council

May 17, 2021
Date

said City on the _____ day of May, 2021; 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, Clerk of Council

CERTIFICATION OF RECORDS

I, Roxanne Dietrich, Clerk of Council, of the City of Napoleon, Ohio, do hereby certify and attest that this document to be a **True and Correct** copy of Ordinance Number 018-21, passed May ____, 2021.

Roxanne Dietrich, Clerk of Council

Date

STATE OF OHIO
COUNTY OF HENRY

Sally Heaston, being first duly sworn, states that she is the General Manager of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 25 day of May, 2021.

Sally Heaston
Sally Heaston

Subscribed and sworn to before me this

2 day of June, 2021

Kristi Clark
Kristi Clark
Notary Public,
State of Ohio
My Commission
Expires October 23, 2025



KRISTI L CLARK
Notary Public
State of Ohio
My Comm. Expires
October 23, 2025

Printer's Fee: \$262.40
Notary Fee: \$ 3.00

SUMMARY TO ORDINANCE NO. 018-21

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4.1, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

NOTICE

A copy of the complete text of Ordinance No. 018-21 is on file in the office of the Clerk of Council of the City and may be viewed or obtained during business hours of 7:30 AM to 4 PM, Monday through Friday, at the office of the Clerk of Council, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of Ordinance No. 018-21 or any item mentioned in this notice may be obtained from the Clerk of Council upon the payment of a reasonable fee therefore.

ORDINANCE NO. 018-21

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,100,000, FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE CITY'S PUBLIC ROADWAYS, INCLUDING AMERICAN ROAD AND OAKWOOD AVENUE BETWEEN CERTAIN TERMINI, BY RECONSTRUCTING, CURBING AND PAVING, INSTALLING STORM WATER IMPROVEMENTS, ADJUSTING WATERLINES AND SANITARY SEWER COMPONENTS, AND ACQUIRING ANY INTERESTS IN REAL PROPERTY, TOGETHER WITH ALL RELATED APPURTENANCES THERETO, AUTHORIZING RELATED SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS, AND DECLARING AN EMERGENCY.

Ordinance No. 018-21 provides for the issuance and sale of bonds for the purpose of paying the costs of improving the City's public roadways, including American Road and Oakwood Avenue between certain termini, by reconstructing, curbing and paving, installing storm water improvements, adjusting waterlines and sanitary sewer components, and acquiring any interests in real property, together with all related appurtenances thereto. The Ordinance also provides for the sale of the bonds in the maximum principal amount of \$1,100,000 which bonds are expected to mature periodically with the final maturity occurring no later than December 31, 2051 and shall bear interest at a rate or rates to be determined by the Finance Director to be a fair market rate or rates for such bonds at the time of the sale. The Ordinance also provides that the bonds shall be offered for sale to the City's Treasury Investment Board and payable at the office of the Finance Director.

The Ordinance further provides that...