

**ORDINANCE NO. 2021-4**

Introduced by Mark Claus

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$1,500,000 OF BONDS, TO PAY COSTS OF IMPROVING THE MUNICIPAL ELECTRIC SYSTEM BY CONSTRUCTING A NEW SUBSTATION, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 2018-6, passed on March 13, 2018, the City issued \$3,500,000 Taxable Electric System Improvement Notes, Series 2018, in anticipation of bonds for the purpose stated in Section 1, which notes were retired at maturity with the proceeds of \$3,500,000 Taxable Electric System Improvement Notes, Series 2019, issued in anticipation of bonds pursuant to Ordinance No. 2019-4 passed on March 12, 2019, which notes were retired at maturity with the proceeds of \$3,500,000 Taxable Electric System Improvement Notes, Series 2020 (the Outstanding Notes), issued in anticipation of bonds pursuant to Ordinance No. 2020-5 passed on March 10, 2020, which Outstanding Notes mature on March 31, 2021; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Bonds described in Section 1 and other available funds of the City; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue the Bonds described in Section 1 to provide funds sufficient for that purpose, including the payment of expenses properly allocable to the issuance of the Bonds; and

WHEREAS, the Director of Finance as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, and the estimated maximum maturity of the Bonds described in Section 1 is 30 years.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Huron, Erie County, Ohio, that:

Section 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$1,500,000 to pay costs of improving the municipal electric system by constructing a new substation, together with all necessary appurtenances, including the payment of expenses related to the issuance of the Bonds, and to retire the Outstanding Notes (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). The Bonds shall be designated "Taxable Electric System Improvement Bonds, Series 2021" or otherwise as determined by the Director of Finance in the Certificate of Award, shall be issued in one lot, and shall be issued only as fully registered bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by

the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years 2021 through 2040 in which principal on the Bonds is payable (or such other annual years as are determined by the Director of Finance in the Certificate of Award, provided that in no case shall the total number of Principal Payment Dates exceed the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated their date of issuance or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. 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.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other such fiscal year and (ii) the true interest cost of the Bonds does not exceed 6%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

Section 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any date, and at the redemption prices (expressed as a percentage of

the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102% and the earliest optional redemption date shall not be later than 10½ years from the date of issuance of the Bonds.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by enactment of a resolution or an ordinance. That notice shall specify the redemption date and the principal amount of each maturity 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. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, 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 interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner that the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) 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 then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed 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 other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued 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 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) 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, this Ordinance. 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 Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

Section 4. Appointment of Bond Registrar. As used herein, "Bond Registrar" means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, "Bond Registrar" shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approval of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement 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.

Section 5. 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 a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15<sup>th</sup> day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of

principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

Section 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, 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 this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then 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 designated 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 registered 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 this Ordinance. The exchange or transfer shall be without charge to the registered 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 this Board, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, 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 15<sup>th</sup> 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 7. Award and Sale of the Bonds. In accordance with this Ordinance, the Bonds shall be awarded and sold at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original

Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, 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 City Manager, Director of Finance, Director of Law, 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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance 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 8. Application of Proceeds. The proceeds from the sale of the Bonds (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 Bonds are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

In each year to the extent the net revenues from the municipal electric system are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such net revenues so available and appropriated.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, and to the extent not paid from net revenues of the municipal electric system, 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 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 two preceding paragraphs 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 Bonds.

Section 10. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and the Certificate of Award to the Erie County Auditor.

Section 11. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.


Section 12. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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

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

Section 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective so that the Bonds can be sold at the earliest possible date, which is necessary to enable the City to retire the Outstanding Notes and thereby preserve its credit; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Adopted: 23 FEB 2021

  
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Sam Artino, Mayor

Attest:   
Clerk of Council