

VILLAGE OF THE CITY OF GALLIPOLIS, OHIO

ORDINANCE NO. O2013-11

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$353,175 OF BONDS FOR THE PURPOSE OF PAYING PART OF THE COST OF CONSTRUCTING STREET AND ROAD IMPROVEMENTS IN THE CITY, AND DECLARING AN EMERGENCY.

WHEREAS, this commission (the "Commission") of the Village of the City of Gallipolis, Ohio (the "Municipality") has heretofore by proper legislation determined the necessity of constructing street and road improvements in the Municipality (the "Project"); and

WHEREAS, the City Auditor, as fiscal officer of the Municipality, has estimated the life or period of usefulness of the improvements constituting the Project is at least five (5) years and certified the maximum maturity of bonds issued therefor as twenty (20) years; and

WHEREAS, this Commission anticipates that debt service on such bonds will be paid from the general revenues of the Municipality (the "Revenues"); and

WHEREAS, The Ohio Valley Bank Company (the "Bank") has offered to purchase such bonds upon the terms contained herein; and

WHEREAS, the City Manager has recommended in writing the passage of this ordinance as an emergency measure to take effect immediately upon its passage, it being for the immediate preservation of the public peace, health, safety or property, or providing for the usual daily operation of a municipal department, for the reason that the immediate effectiveness of this ordinance is necessary (i) to assure that the Project is acquired, constructed and financed in a timely manner, and (ii) so that the Municipality, its citizens and taxpayers may receive the benefits of the Project as soon as possible;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the Village of the City of Gallipolis, State of Ohio, all members elected or appointed thereto concurring, that:

SECTION 1. It is necessary to issue and sell bonds of the Municipality in the principal sum of not to exceed \$353,175 (the "Bonds") for the purpose of paying part of the cost of the Project, including "financing costs," as defined in Section 133.01 of the Ohio Revised Code, related to the issuance of the Bonds and other permissible costs under Chapter 133 of the Ohio Revised Code (the "Act"), under authority of and pursuant to the general laws of the State of Ohio, particularly the Act.

SECTION 2. The Bonds shall (i) be issued in a principal amount not to exceed the amount set forth above, for the purpose aforesaid, (ii) be dated, (iii) be of denominations, (iv) mature or be subject to mandatory sinking fund redemption on dates and in amounts, provided that the principal payments on the Bonds and the dates thereof shall be in compliance with the requirements of the Act, and provided further that the final maturity of the Bonds shall be not later than December 31, 2028, and (v) bear interest until the entire principal amount of the Bond

has been paid or provided for at the rate of three and fifty-five hundredths percent (3.55%) per annum, which interest shall payable on dates (each, a "Bond Payment Date"), all as determined by the City Auditor without further action of this Commission and set forth in the Bonds, which determinations shall be conclusive.

The Bonds shall be subject to redemption prior to maturity at the sole option of the Municipality in whole, or in part in inverse order of maturity at the price of 100% of the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date.

If fewer than all of the outstanding Bonds are called for redemption, the registered holder of the Bond shall surrender the Bond to the Paying Agent and Registrar (a) for payment of the redemption price for the principal amount called for redemption (including without limitation, the interest accrued to the date fixed for redemption), and (b) for issuance, without charge to the registered holder thereof, of a new Bond in a principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same dates as, the Bond surrendered.

The notice of call for redemption of Bonds shall be given by the Paying Agent and Registrar on behalf of this Municipality by mailing a copy of the redemption notice by certified mail, return receipt requested, at least 30 days prior to the date fixed for redemption, to the registered holder of each Bond subject to redemption in whole or in part at such registered holder's address shown on the Bond registration records on the fifteenth day preceding that mailing. Failure to receive notice by mailing or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond. Notice having been mailed in the manner provided above, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date and on such redemption date, interest on such Bonds or portions thereof so called shall cease to accrue; and upon presentation and surrender of such Bonds or portions thereof at the place or places specified in that notice, such Bonds or portions thereof shall be paid at the redemption price, including interest accrued to the redemption date. Any such date of redemption shall also be a "Bond Payment Date".

The Bonds shall be designated "Street Improvement Bonds, Series 2013".

It is hereby determined by this Commission that (a) the components of the Project comprise one group or category of permanent improvements for or devoted to the same general purpose, function or use, and (b) the issuance of the Bonds provided herein, including without limitation, the redemption provisions set forth above, are in the best interests of this Municipality.

SECTION 3. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this ordinance. The Bonds shall be in fully registered form without coupons, shall be executed by the City Manager and City Auditor, and shall be approved as to form and correctness by the City Solicitor, provided that such signatures may be facsimile signatures provided that any or all such signatures may be facsimile signatures, may bear the seal of this Municipality or a facsimile thereof, and shall bear the manual authenticating signature of the City Auditor or an authorized representative of a bank or trust company designated by the City Auditor without further action of this Commission to serve as

the paying agent, registrar and transfer agent (in either case, the "Paying Agent and Registrar") for the Bonds. The principal amount of and interest on each Bond shall be payable to the person whose name appears on the record date (being the 15<sup>th</sup> day preceding each Bond Payment Date) on the Bond registration records as the registered holder thereof.

The Bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. This Municipality and the Paying Agent and Registrar shall not be required to transfer any Bond during the 15-day period preceding any Bond Payment Date or preceding any selection of Bonds to be redeemed, or after such Bond has been selected for partial or complete redemption, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new Bond of the same maturities and for the same unpaid principal amount shall be issued to the transferee in exchange therefor.

This Municipality and the Paying Agent and Registrar may deem and treat the registered holders of the Bonds as the absolute owners thereof for all purposes, and neither this Municipality nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

SECTION 4. The Bonds shall be the full general obligations of the Municipality and the full faith, credit, and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds when due. During the period the Bonds are to run, there shall be and hereby is levied on all the taxable property in this Municipality, in addition to all other taxes but within applicable limitations, a direct tax annually as required by Article XII, Section 11 of the Constitution of Ohio in an amount sufficient to pay the principal of and interest on the Bonds promptly when and as the same falls due, whether due to maturity or mandatory sinking fund redemption.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same times that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The Revenues to be applied to debt service on the Bonds and the funds derived from said tax levies hereby required shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest on and the principal of the Bonds when and as the same shall fall due; provided, that in each year to the extent that the Revenues or moneys from other sources are available for the payment of debt service on the Bonds and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of the Revenues or such moneys so available and appropriated.

SECTION 5. The Bonds are hereby awarded and sold to the Bank in accordance with its offer to purchase the Bonds which is hereby accepted. The City Manager, the City Auditor or their respective designees are directed to make the necessary arrangements on behalf of the Municipality to establish the date, location, procedure and conditions for the delivery of the Bonds to the Bank and to give all appropriate notices and certificates and to take all steps necessary to effect due authentication, delivery and perfection of the security of the Bonds under the terms hereof. It is hereby determined that the purchase price and the interest rates for the

Bonds set forth above, and the manner of sale and the terms of the Bonds as provided in this ordinance, are consistent with all legal requirements and will carry out the public purposes of the Municipality, in accordance with the Act.

The proceeds from the sale of the Bonds, except any premium or accrued interest thereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose, and for which purpose said proceeds are hereby appropriated to the extent not previously appropriated apportioned. Premium, if any, shall be used to pay issuance costs of the Bonds or shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on said Bonds in the manner provided by law. Accrued interest, if any, shall be transferred to the bond retirement fund to be applied to the payment of interest on said Bonds in the manner provided by law.

All appropriate officers of the Municipality are further authorized to make, execute, acknowledge and deliver such financing statements and other instruments or agreements as are, in the opinion of Peck, Shaffer & Williams LLP, bond counsel to the Municipality, necessary to carry out the purposes of this ordinance or to effectuate the sale, issuance and delivery of the Bonds.

SECTION 6. This Commission hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations prescribed thereunder, including any expenditure requirements, investment limitations or rebate requirements. Without limiting the generality of the foregoing, this Commission represents and covenants that not more than 10% of the improvements financed with the proceeds of the Bonds shall be used directly or indirectly in the trade or business of any person that is not an "exempt person" within the meaning of the Code. The City Manager, the City Auditor or any other officer having responsibility with respect to the issuance of the Bonds is authorized and directed to give an appropriate certificate on behalf of this Municipality on the date of delivery of the Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

The Bonds are hereby designated "qualified tax-exempt obligations" to the extent permitted by Section 265(b) of the Code and not deemed so designated. This Commission finds and determines that the reasonably anticipated amount of tax-exempt obligations (whether or not designated as qualified) issued and to be issued by the Municipality during this calendar year including the Bonds does not, and this Commission hereby covenants that, during such year, the amount of tax-exempt obligations issued by the Municipality and designated as "qualified tax-exempt obligations" for such purpose will not, exceed \$10,000,000.

SECTION 7. All actions of the officers and employees of the Municipality heretofore taken in connection with the authorization, sale and issuance of the Bonds are hereby approved, ratified and confirmed.

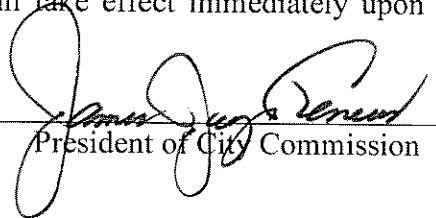
SECTION 8. The law firm of Peck, Shaffer & Williams LLP be and is hereby retained as bond counsel to the Municipality to prepare the necessary authorization and related closing documents for the issuance, sale and delivery of the Bonds and, if appropriate, rendering its approving legal opinion in connection therewith in accordance with the written agreement with the Municipality which the Mayor, the City Manager, the City Auditor, or any of them are each hereby separately authorized, alone or with others, to execute and deliver on behalf of the Municipality, in such form as may be approved by such officers. The approval of such form shall be conclusively evidenced by the execution of such agreement by such officers. Such law firm shall be compensated by the Municipality for the above services in accordance with such written agreement.

SECTION 9. The City Auditor is hereby directed to forward a certified copy of this ordinance to the county auditor of each county in which any part of this Municipality is located.

SECTION 10. It is found and determined that all formal actions of this Commission concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Commission, and that all deliberations of this Commission and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law, including Section 121.22 of the Revised Code of Ohio.

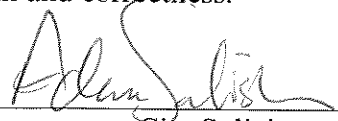
SECTION 11. That this ordinance is hereby declared to be an emergency measure for the reason set forth in the preamble hereto, and therefore, shall take effect immediately upon its passage.

PASSED: February 21, 2013

  
\_\_\_\_\_  
President of City Commission

Attest:   
\_\_\_\_\_  
Clerk of City Commission

The foregoing ordinance is hereby approved as to form and correctness.

  
\_\_\_\_\_  
City Solicitor

Prepared by:  
Dennis G. Schwallie, Esq.  
Peck, Shaffer & Williams LLP  
Suite 500  
65 East State Street  
Columbus, Ohio 43215

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of Ordinance No. O2013-11.

  
Clerk of City Commission

CERTIFICATE

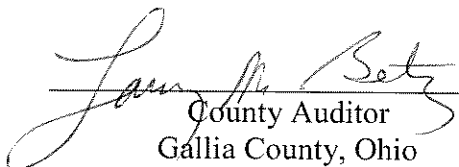
The undersigned hereby certifies that a copy of the foregoing ordinance was certified this day to the county auditor of Gallia County, Ohio.

  
City Auditor

Dated: February 22, 2013

CERTIFICATE AND RECEIPT

The undersigned, County Auditor of Gallia County, Ohio, hereby certifies the filing and acknowledges receipt of a certified copy of the foregoing ordinance.

  
County Auditor  
Gallia County, Ohio

Dated: February 22, 2013

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