

ORDINANCE NO.: 2013-08 (AMENDED MAY 28, 2013)
SPONSOR: MAYOR NORTON
INTRODUCED: MAY 14, 2013 **ASSIGNED TO:** FINANCE

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOTES IN A MAXIMUM PRINCIPAL AMOUNT OF \$3,060,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF CONSTRUCTING, RECONSTRUCTING, RESURFACING, AND OTHERWISE IMPROVING CERTAIN STREETS WITHIN THE CITY, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, STATE OF OHIO:

SECTION ONE:

Findings and Determinations. This Council finds and determines the following matters (capitalized terms are defined in Section 15):

- (a) It is necessary for the City to issue the Bonds to pay the costs of the Projects. It is necessary to issue the Series 2013D Notes in anticipation of the Bonds for the purpose of (1) paying the costs of the Projects, and (2) paying the Financing Costs of the Series 2013D Notes.
- (b) The Director of Finance has certified to this Council the maximum maturity of the Bonds and notes issued in anticipation of the Bonds.
- (c) All acts and conditions necessary to be performed by the City or to have been met for the issuance of the Series 2013D Notes in order to make them legal, valid, and binding general obligations of the City, have been performed and met, or will have been performed and met, at the time of delivery of the Series 2013D Notes, as required by law.
- (d) No statutory or constitutional limitation of indebtedness or taxation will be exceeded by the issuance of the Series 2013D Notes.

SECTION TWO:

Bond Terms. The Bonds will have the following terms:

- (a) **Amount and Rate.** The Bonds will be issued in the maximum principal amount of \$3,060,000 and will bear interest at the estimated average annual interest rate of 4%.
- (b) **Term.** The Bonds will mature serially over a period of 20 years in accordance with the following estimated principal payment schedule:

Year	Principal	Year	Principal
1	\$153,000	11	\$153,000
2	153,000	12	153,000
3	153,000	13	153,000
4	153,000	14	153,000
5	153,000	15	153,000
6	153,000	16	153,000
7	153,000	17	153,000
8	153,000	18	153,000
9	153,000	19	153,000
10	153,000	20	153,000

- (c) **Debt Service.** The Bonds will be payable as to Debt Service from any money of the City lawfully available and appropriated for that purpose and, if that money is insufficient, from the proceeds of an ad valorem tax to be levied on all property within the City, subject to the 10-mill limitation imposed by Section 5705.02, Revised Code, and from any payments in lieu of taxes with respect to the Projects.

SECTION THREE:

Note Terms. The Series 2013D Notes will have the following terms:

- (a) **Amount.** The Series 2013D Notes will be issued in the maximum principal amount of \$3,060,000 or any lesser principal amount as determined by the Director of Finance in the Certificate of Award.
- (b) **Date.** The Series 2013D Notes will be dated the Closing Date, or any other date, not more than 31 days before the Closing Date, as determined by the Director of Finance in the Certificate of Award.
- (c) **Maturity.** The Series 2013D Notes will mature one year from their date. The Director of Finance may, if he determines it to be in the best interests of the City, establish a different maturity date, less than one year from the Closing Date.
- (d) **Interest.** The Series 2013D Notes will bear interest from their date at a rate not to exceed 8% per annum, payable at maturity. Interest will be calculated on the basis of a 360-day year consisting of twelve, 30-day months. The rate of interest on the Series 2013D Notes must be determined by the Director of Finance in the Certificate of Award.
- (e) **Redemption before Stated Maturity.** The Series 2013D Notes will not be subject to redemption before maturity, unless otherwise determined by the Director of Finance in the Certificate of Award. The Director of Finance may

determine, in the Certificate of Award, to provide that the Series 2013D Notes will be subject to redemption, and may establish, in the Certificate of Award, notice provisions for that redemption, and any price for that redemption, which may be any percentage of the principal amount redeemed, not exceeding 110%.

- (f) **Form, Numbering, and Denomination.** The Series 2013D Notes must be issued in fully registered form. They must be issued in book-entry form unless the Director of Finance determines in the Certificate of Award that it would not be in the best interest of the City for the Series 2013D Notes to be in book-entry form. They must be issued in Authorized Denominations and in the numbers and amounts as requested by the Original Purchaser and approved by the Director of Finance. They must be numbered as determined by the Director of Finance in a manner to distinguish each Series 2013D Note from any other Series 2013D Note. They must express on their faces the purpose for which they are issued and that they are issued in accordance with this ordinance. The Series 2013D Notes will be designated "Street Improvement General Obligation Bond Anticipation Notes, Series 2013D," unless otherwise designated in the Certificate of Award.

SECTION FOUR:

Payment. The Debt Service on the Series 2013D Notes must be payable in lawful money of the United States of America, without deduction for the services of the Registrar as paying agent. Debt Service on the Series 2013D Notes will be payable when due upon presentation and surrender of the Series 2013D Notes at the office of the Registrar.

SECTION FIVE:

Signing and Authentication of the Notes.

- (a) **Signing.** The Series 2013D Notes must be signed on behalf of the City by the Mayor and the Director of Finance. In the absence of the Mayor, the Series 2013D Notes must be signed by the President of Council and, in the absence of the Director of Finance, the Series 2013D Notes must be signed by the Tax Administrator. Both signatures on the Series 2013D Notes may be facsimiles.
- (b) **Authentication.** No Series 2013D Note will be valid or obligatory for any purpose or will be entitled to any security or benefit under the Note Proceedings unless and until the certificate of authentication printed on the note certificate is signed by the Registrar as authenticating agent. Authentication by the Registrar will be conclusive evidence that the Series 2013D Note so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Note Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Registrar or by any other person acting as an agent of the Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Series 2013D Notes.

**SECTION SIX:
Registration; Transfer and Exchange; Book-Entry System.**

- (a) **Registrar.** So long as any of the Series 2013D Notes remain outstanding, the City must cause the Registrar to maintain the Register. The person in whose name a Series 2013D Note is registered on the Register will be regarded as the absolute owner of that Series 2013D Note for all purposes of the Note Proceedings. Payment of the Debt Service on any Series 2013D Note will be made only to or upon the order of that person.
- (b) **Transfer and Exchange.** Any Note may be transferred or exchanged for Series 2013D Notes of any Authorized Denomination, as provided in the Registrar Agreement.
- (c) **Book-Entry System.** Unless otherwise provided in the Certificate of Award, the Series 2013D Notes must be originally issued in book-entry form to a Depository, initially The Depository Trust Company, for use in a book-entry system upon the terms provided in the Registrar Agreement.

The City and the Registrar must recognize and treat the Depository as the owner of the Series 2013D Notes for all purposes, including payment of Debt Service, redemption and other notices, and enforcement of remedies.

If any Depository determines not to continue to act as a Depository for the Series 2013D Notes for use in a book-entry system or if the City determines to discontinue the book-entry system, the Director of Finance may attempt to establish a securities depository relationship with another qualified Depository. If the Director of Finance does not do so, the Director of Finance must direct the Registrar to make provision for notification of the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Series 2013D Notes from the book-entry system.

**SECTION SEVEN:
Sale of the Series 2013D Notes.**

- (a) **Private Sale.** This Council authorizes and directs the Director of Finance to sell the Series 2013D Notes in a private sale to the Original Purchaser. The purchase price of the Series 2013D Notes must not be less than 97% of the aggregate principal amount of the Series 2013D Notes, plus any accrued interest on the Series 2013D Notes from their date to the date of delivery and payment. The Director of Finance may sell the Series 2013D Notes at the same time, in the same manner, and in the same offering with other securities of the City, whether or not

those other securities have been consolidated with the Series 2013D Notes in accordance with (b) below.

- (b) **Consolidation.** If the Director of Finance determines it to be in the best interest of the City, he may combine the Series 2013D Notes with one or more other general obligation bond anticipation notes of the City, payable from taxes subject to the ten-mill tax limitation.
- (c) **Certificate of Award.** The Director of Finance must deliver a Certificate of Award to the Original Purchaser in connection with the sale of the Series 2013D Notes. The Director of Finance must state in the Certificate of Award: the principal amount of the Series 2013D Notes; the interest rate on the Series 2013D Notes; the purchase price for the Series 2013D Notes; the entity designated as Registrar; the entity designated as the Original Purchaser; whether the Series 2013D Notes will be issued as Tax-Exempt obligations; whether the Series 2013D Notes will be issued and designated as “qualified tax-exempt obligations” in accordance with Code Section 265(b)(3); and any other terms required by this ordinance. The Director of Finance may state in the Certificate of Award any changes in the date, the maturity date, the redemption provisions, and the designation of the Series 2013D Notes; whether the Series 2013D Notes are to be consolidated with other note issues; and any other terms authorized by this ordinance, subject to the limitations stated in this ordinance.
- (d) **Delivery.** The Director of Finance must cause the Series 2013D Notes to be prepared, signed, and delivered to the Original Purchaser. This Council authorizes and directs the Clerk of Council to deliver a true transcript of proceedings for the issuance of the Series 2013D Notes to the Original Purchaser upon payment of the purchase price. This Council authorizes and directs the Director of Finance to provide to the Clerk of Council, for inclusion in the transcript, a statement of the indebtedness of the City and the other information required by Section 133.33, Revised Code.

SECTION EIGHT:

Disclosure.

- (a) **Primary Offering Disclosure—Official Statement.** This Council authorizes and directs the Mayor or the Director of Finance, or either of them, if they determine it to be necessary in connection with the sale of the Series 2013D Notes, to (1) prepare or cause to be prepared, and to make or authorize modifications, completions, or changes of or supplements to, a disclosure document in the form of an official statement, (2) determine, and certify or otherwise represent, when the official statement is to be “deemed final” (except

for permitted omissions) or is a final official statement for purposes of the SEC Rule, (3) use and distribute, or authorize the use and distribution of, that official statement and any supplements in connection with the original issuance of the Series 2013D Notes, and (4) complete and sign the final official statement together with certificates, statements, or other documents in connection with the finality, accuracy, and completeness of that official statement.

(b) **Secondary Market Disclosure—Continuing Disclosure Agreement.** For the benefit of the Holders of the Series 2013D Notes and the beneficial owners of book-entry interests in the Series 2013D Notes, the City agrees, as the only obligated person with respect to the Series 2013D Notes under the SEC Rule, to provide notices in the manner required for purposes of paragraph (b)(5)(i) of the SEC Rule.

(1) **Information Filing.** The City further agrees, in particular, to provide, to the MSRB through the EMMA System, in an electronic format as prescribed by the MSRB and containing identifying information as prescribed by the MSRB, in a timely manner, notice of (A) any Specified Event, within 10 business days of the occurrence of a Specified Event, (B) any failure by the City to appropriate funds to meet costs to be incurred to perform the Continuing Disclosure Agreement, and (C) the termination of the Continuing Disclosure Agreement.

(2) **Disclosure Procedures.** This Council further authorizes and directs the Director of Finance to establish procedures to ensure compliance by the City with the Continuing Disclosure Agreement, including timely provision of information and notices as described above. Before providing notice of the occurrence of any other events, the Director of Finance may consult with and obtain legal advice from bond counsel or other qualified independent special counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, may rely upon that legal advice in determining whether a filing should be made.

(3) **Amendments.** The City reserves the right to amend the Continuing Disclosure Agreement, and to obtain the waiver of noncompliance with any provision of the Continuing Disclosure Agreement, as may be necessary or appropriate to achieve its compliance with any applicable federal securities law or rule, to cure any ambiguity, inconsistency, or formal defect or omission, and to address any change in circumstances arising from a change in legal requirements, change in law, or change in the identity, nature, or status of the City, or type of business conducted by the City. Any amendment or waiver will not be effective unless the Continuing Disclosure Agreement (as amended or taking into account that waiver) would have complied with the requirements of the SEC Rule at the time of the primary offering of the Series 2013D Notes, after taking into account any applicable

amendments to or official interpretations of the SEC Rule, as well as any change in circumstances, and until the City has received either (A) a written opinion of bond counsel or other qualified independent special counsel selected by the City that the amendment or waiver would not materially impair the interests of Holders or beneficial owners of book-entry interests in the Series 2013D Notes, or (B) the written consent to the amendment or waiver by the Holders of at least a majority of the principal amount of the Series 2013D Notes then outstanding.

- (4) **Enforcement.** The Continuing Disclosure Agreement will be solely for the benefit of the Holders of, and beneficial owners of book-entry interests in, the Series 2013D Notes. The exclusive remedy for any breach of the Continuing Disclosure Agreement by the City will be limited, to the extent permitted by law, to a right of Holders and beneficial owners to institute and maintain legal proceedings to obtain the specific performance by the City of its obligations under the Continuing Disclosure Agreement. Any individual Holder or beneficial owner may institute and maintain those proceedings to require the City to provide a filing if the filing is due and has not been made. Any proceedings to require the City to perform any other obligation under the Continuing Disclosure Agreement (including any proceedings that contest the sufficiency of any filing) may be instituted and maintained only (A) by a trustee appointed by the Holders and beneficial owners of not less than 25% in principal amount of the Series 2013D Notes then outstanding, or (B) by Holders and beneficial owners of not less than 10% in principal amount of the Series 2013D Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1), Revised Code, as applicable, or any comparable successor provisions.
- (5) **Appropriation.** The performance by the City of the Continuing Disclosure Agreement will be subject to the annual appropriation of any funds that may be necessary to perform it.
- (6) **Term.** The Continuing Disclosure Agreement will remain in effect only for the period that the Series 2013D Notes are outstanding in accordance with their terms and the City remains an obligated person with respect to the Series 2013D Notes within the meaning of the SEC Rule. The obligation of the City to provide notices of the events described above will terminate if and when the City is no longer an obligated person with respect to the Series 2013D Notes.

SECTION NINE:

Financing Costs. The City retains the professional services and authorizes the payment of the Financing Costs for the Series 2013D Notes, as provided in this Section 9.

- (a) **Bond Counsel.** The City retains the legal services of Vorys, Sater, Seymour and Pease LLP, as bond counsel for the Series 2013D Notes. The legal services will 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 Series 2013D Notes and rendering legal opinions upon the delivery of the Series 2013D Notes. Bond counsel must render those services to the City in an attorney-client relationship. Bond counsel must be paid just and reasonable compensation for those legal services.
- (b) **Original Purchaser.** This Council authorizes and directs the Director of Finance to select the Original Purchaser of the Series 2013D Notes, either as an underwriter or as a purchaser in a private placement. If the Director of Finance selects the Original Purchaser to act as an underwriter of the Series 2013D Notes, it will be Ross, Sinclair & Associates, LLC, and the City retains the services of the Original Purchaser as senior manager for the Series 2013D Notes. The senior manager may designate additional members of the underwriting syndicate. The Original Purchaser will be paid for services in accordance with any Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal.
- (c) **Registrar.** This Council authorizes and directs the Director of Finance to appoint a Registrar for the Series 2013D Notes. The Registrar must be a financial institution able to complete transfer and exchange functions for the Series 2013D Notes in accordance with standards and conditions applicable to registered corporate securities. The City retains the services of the Registrar for the Series 2013D Notes. The Registrar must perform the services as registrar, authenticating agent, paying agent, and transfer agent for the Series 2013D Notes as provided in this ordinance and the Registrar Agreement. The Registrar must be paid for those services in accordance with the Registrar Agreement.
- (d) **Ratings and Insurance.** If, in the judgment of the Director of Finance, the filing of an application for (1) a rating on the Series 2013D Notes by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance to better assure the payment of principal of and interest on the Series 2013D Notes, is in the best interest of and financially advantageous to the City, the Director of Finance must prepare and submit those applications and provide to each of those agencies or companies the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance to be included in Financing Costs authorized under (g) below.

