

CITY OF WILMINGTON, OHIO

ORDINANCE NO. O-16-27

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,120,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING AT MATURITY BOND ANTICIPATION NOTES ISSUED IN 2015 TO REFUND AT A LOWER INTEREST COST TO THE CITY CERTAIN FIRST MORTGAGE WATERWORKS SYSTEM REVENUE BONDS, 2005 SERIES, OF THE CITY, THERETOFORE ISSUED TO PAY PART OF THE COSTS OF REFUNDING THE CITY'S THEN OUTSTANDING FIRST MORTGAGE WATERWORKS SYSTEM REVENUE BONDS, DATED JULY 1, 1996, AND PAYING RELATED LAWFUL COSTS; AUTHORIZING A PURCHASE AGREEMENT AND A REGISTRAR AGREEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Wilmington, Ohio (the "City"), now owns and operates as a public utility a municipal water system (the "*Waterworks System*"), the services of which are supplied to property of persons and corporations both within and without the corporation limits of the City and which may be extended to serve additional users; and

WHEREAS, pursuant to Ordinance No. 3683 (together with the Certificate of Award authorized thereby, the "*1996 Authorizing Legislation*"), and an Indenture of Mortgage and Security Agreement dated as of July 1, 1996, between the City and the Trustee, and recorded at Volume 0205, Page 447, of the Official Records of Clinton County (the "*1996 Indenture*"), the City issued \$6,775,000 First Mortgage Waterworks System Revenue Bonds, dated July 1, 1996 (the "*1996 Bonds*"); and

WHEREAS, pursuant to Ordinance No. 3869 (together with the Certificate of Award authorized thereby, the "*1998 Authorizing Legislation*"), and a First Supplemental Indenture of Mortgage and Security Agreement dated as of June 15, 1998, between the City and the Trustee, and recorded at Volume 0270, Page 3, of the Official Records of Clinton County (the "*First Supplemental Indenture*"), the City issued \$9,995,000 of its First Mortgage Waterworks System Revenue Bonds, 1998 Series, dated June 15, 1998 (the "*1998 Bonds*"); and

WHEREAS, pursuant to Ordinance No. 4489 (together with the Certificate of Determination authorized thereby, the "*2005 Authorizing Legislation*"), and a Second Supplemental Indenture of Mortgage and Security Agreement dated as of February 15, 2005, between the City and the Trustee, and recorded at Volume 0599, Page 231, of the Official Records of Clinton County (the "*Second Supplemental Indenture*"), the City issued \$5,525,000 of its First Mortgage Waterworks System Refunding Revenue Bonds, 2005 Series, dated February 15, 2005 (the "*2005 Bonds*"), refunding particular 1996 Bonds; and

WHEREAS, pursuant to Ordinance No. 4669 (together with the Certificate of Determination authorized thereby, the "*2007 Authorizing Legislation*"), and a Third Supplemental Indenture of Mortgage and Security Agreement dated as of August 15, 2007, between the City and the Trustee, and recorded at Volume 706, Page 842 of the Official Records of Clinton County (the "*Third Supplemental Indenture*"), the City issued \$9,330,000 of its First Mortgage Waterworks System Refunding and Improvement Revenue Bonds, 2007 Series, dated August 15, 2007 (the "*2007 Bonds*"), for the purpose of refunding particular 1998 Bonds and paying the cost of additional improvements to the Waterworks System; and

WHEREAS, the 1996 Indenture as supplemented and amended by the First Supplemental Indenture, the Second Supplemental Indenture, and the Third Supplemental Indenture, and as the same may be further supplemented and amended, is referred to herein as the "*Indenture*;" and

WHEREAS, the Indenture includes the 1996 Authorizing Legislation, the 1998 Authorizing Legislation, the 2005 Authorizing Legislation and the 2007 Authorizing Legislation; and

WHEREAS, pursuant to Ordinance No. 5222 (together with the Certificate of Award authorized thereby), the City issued \$2,490,000 Waterworks System Refunding General Obligation (Limited Tax) Bond Anticipation Notes, Series 2015 (the "Series 2015 Notes") for the purpose of refunding a portion of the 2005 Bonds theretofore issued by the City to advance refund a portion of the City's 1996 Bonds theretofore issued by the City for the purpose of paying the cost of making necessary improvements to the Waterworks System and paying other lawful costs incident thereto and to the issuance of the Series 2015 Notes; and

WHEREAS, there are no longer any 1996 Bonds, 1998 Bonds or 2005 Bonds outstanding under the Indenture; and

WHEREAS, this Council finds and determines that it is in the best interest of the City to discharge the Series 2015 Notes at their maturity on June 14, 2016, with the proceeds of the Series 2016 Notes described in Section 2 of this Ordinance, together with other funds lawfully available to the City; and

WHEREAS, this Council finds and determines that it is necessary to issue and sell the Series 2016 Notes identified in Section 2 of this Ordinance in anticipation of the issuance of the Bonds identified in Section 2 of this Ordinance, to provide moneys, together with other lawfully available funds, to discharge the Series 2015 Notes at their maturity; and

WHEREAS, Chapter 133 of the Ohio Revised Code, and particularly Section 133.30 thereof, provides authority for this Council to combine securities that are payable from property taxes and that are authorized for different permanent improvement purposes under separate legislation, each dealing with one purpose, into a single consolidated issue of securities for purposes of their sale as a single issue; and

WHEREAS, the Deputy City Auditor, acting on behalf of the City Auditor, as fiscal officer of this City, has certified to this Council that the estimated life or period of usefulness of the Improvements described in Section 1 is at least five (5) years, and that the estimated maximum maturity, calculated in accordance with Sections 133.20 and 133.34(A)(1) of the Ohio Revised Code, of the Bonds anticipated by the issuance of the Series 2016 Notes is ten (10) years; and that the maximum maturity of the Series 2016 Notes is two hundred forty (240) months, less such number of months in which any prior bond anticipation notes for such purpose have been outstanding; and

WHEREAS, this Ordinance pertains to the financing of permanent improvement projects previously approved by this Council; and

WHEREAS, this Ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, property, health, and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to permit the prompt issuance and sale of the Series 2016 Notes herein described, which is necessary to enable the City to discharge the Series 2015 Notes at their maturity;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Wilmington (the "City"), County of Clinton, State of 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:

"*Authorized Denominations*" means the denomination of \$100,000 or any integral multiple of \$5,000 in excess of \$100,000.

"*Book entry form*" or "*book entry system*" means a form or system under which (a) the ownership of book entry interests in Series 2016 Notes and the principal of and interest on the Series 2016 Notes may be transferred only through a book entry, and (b) physical Series 2016 Note certificates in fully registered form are issued by the City only to a Depository or its

nominee as registered owner, with the Series 2016 Notes “immobilized” in the custody of the Depository or its designated agent. The book entry maintained by others than the City is the record that identifies the owners of book entry interests in those Series 2016 Notes and that principal and interest.

“*Bonds*” means the bonds authorized in Section 2 of this Ordinance.

“*Certificate of Award*” means the certificate authorized by Section 2, to be executed by the Mayor and the City Auditor, setting forth and determining those terms or other matters pertaining to the Series 2016 Notes and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Series 2016 Notes.

“*Code*” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“*Depository*” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of book entry interests in Series 2016 Notes or the principal of and interest on Series 2016 Notes, and to effect transfers of Series 2016 Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“*Note proceedings*” means, collectively, this Ordinance, the Certificate of Award, and such other proceedings of the City, including the Series 2016 Notes, that provide collectively for, among other things, the rights of holders and beneficial owners of the Series 2016 Notes.

“*Note Register*” means all books and records necessary for the registration, exchange and transfer of Series 2016 Notes as provided in Section 6.

“*Note Registrar*” means a bank or trust company authorized to do business in the State of Ohio and designated by the Mayor and the City Auditor in the Certificate of Award pursuant to Section 6 as the initial authenticating agent, note registrar, transfer agent and paying agent for the Series 2016 Notes under the Registrar Agreement and until a successor Note Registrar shall have become such pursuant to the provisions of the Registrar Agreement and, thereafter, “*Note Registrar*” shall mean the successor Note Registrar.

“*Original Purchaser*” means City Securities Corporation, Cincinnati, Ohio.

“*Participant*” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies, and clearing corporations.

“*Purchase Agreement*” means the Note Purchase Agreement between the City and the Original Purchaser, executed by the Mayor and the City Auditor in accordance with Section 7 and filed with the Clerk of Council.

“*Registrar Agreement*” means the Note Registrar Agreement between the City and the Note Registrar, executed by the Mayor and the City Auditor in accordance with Sections 4 and 6 and filed with the Clerk of Council.

“*Regulations*” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

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. It is necessary and in the best interest of the City to issue and this Council hereby determines that bonds of the City shall be issued in the maximum principal amount of \$2,120,000 (the "*Bonds*"), for the purpose of paying the costs of (a) discharging at maturity, together with other lawfully available funds, the Series 2015 Notes heretofore issued by the City to refund a portion of the 2005 Bonds issued to advance refund a portion of the 1996 Bonds issued to pay the cost of improvements to the Waterworks System (the "*Improvements*"), and (b) paying costs authorized by Chapter 133 of the Ohio Revised Code incident thereto and to the issuance of the Bonds, or notes issued in anticipation thereof.

The Bonds shall be dated approximately June 1, 2017, shall bear interest at a now estimated rate of interest of five percent (5%) per annum, payable semiannually until the principal amount is paid, and are now estimated to mature in four (4) annual principal installments on December 1 of each year, and in such amounts that the total principal and interest payments on the Bonds issued for the purpose shall, in any fiscal year in which principal is payable, be substantially equal. The first principal payment of the Bonds is estimated to be made on December 1, 2017. Debt charges on the Bonds as they become due, and financing costs related to the Bonds, shall be payable from the same sources specified in Section 9 hereof for payment of debt charges on the Series 2016 Notes hereinafter defined, and this Council covenants to appropriate annually from such money such amount as is necessary to meet such debt charges and financing costs.

It is necessary to issue and this Council determines that notes in anticipation of the Bonds in the aggregate principal amount of \$2,120,000 (the "*Series 2016 Notes*") shall be issued for the purpose described in this Section 2. The Series 2016 Notes shall be issued pursuant to Chapter 133 of the Ohio Revised Code, this Ordinance and the Certificate of Award.

The aggregate principal amount of Series 2016 Notes to be issued shall be the principal amount specified in this Section 2, which amount is hereby determined to be the aggregate principal amount of Series 2016 Notes that is required to be issued for the purpose stated in this Section 2, taking into account the estimates of financing costs and interest rate on the Series 2016 Notes.

The Series 2016 Notes shall be dated the date of issuance and shall mature June 13, 2017, provided that the Mayor and the City Auditor may, if it is deemed to be necessary or advisable to the sale of the Series 2016 Notes, establish a maturity date that is up to fifteen days prior to June 13, 2017, by setting forth that maturity date in the Certificate of Award. The Series 2016 Notes shall not be callable for early redemption.

The Series 2016 Notes shall bear the rate of interest per year not to exceed three per cent (3%) per annum (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be determined by the Mayor and the City Auditor in the Certificate of Award. Interest on the Series 2016 Notes shall be payable at such rate at maturity, or until the principal amount is paid or provided for. The Series 2016 Notes 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 proceeds from the sale of the Series 2016 Notes received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Series 2016 Notes are being issued. The Certificate of Award and the Purchase Agreement may authorize the Original Purchaser to withhold certain proceeds from the sale of the Series 2016 Notes to provide for the payment of certain financing costs related to the Series 2016 Notes on behalf of the City. Any portion of those proceeds received by the City (after payment of those financing costs) shall be paid into the City's Bond Retirement Fund and used to pay debt charges on the Series 2016 Notes. Any portion of those proceeds representing premium or accrued interest on the Series 2016 Notes shall be paid into the City's Bond Retirement Fund.

The Certificate of Award is hereby authorized and shall be executed by the Mayor and the City Auditor, without further action of this Council, such approval to be evidenced conclusively by execution of the Certificate of Award.

Section 3. The Series 2016 Notes shall be of such number and denomination as requested by the Original Purchaser; provided that the Series 2016 Notes shall be issued only in Authorized Denominations. This Council hereby covenants that it will not exchange or reissue the Series 2016 Notes in less than Authorized Denominations other than through a "primary offering," as that term is defined in SEC Rule 15c2-12.

The Mayor and the City Auditor are hereby directed to withhold delivery of the Series 2016 Notes, and to refuse payment therefore, unless and until the Original Purchaser delivers to the City a certificate acknowledging that the Original Purchaser will sell the Series 2016 Notes to no more than 35 persons, each of whom the Original Purchaser believes: (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment, and (ii) is not purchasing for more than one account or with a view to distributing the Series 2016 Notes.

Section 4. The debt charges on the Series 2016 Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Mayor and the City Auditor in the Certificate of Award, and shall be payable, without deduction for the service charges at the office of a bank or trust company designated by the Mayor and the City Auditor in the Certificate of Award. Notwithstanding the foregoing, if and so long as the Series 2016 Notes are issued in a book entry system, principal of and interest and any premium on the Series 2016 Notes shall be payable in the manner provided in any agreement entered into by the Mayor and the City Auditor, in the name and on behalf of the City, in connection with the book entry system.

Section 5. If it is determined by the Mayor and the City Auditor in the Certificate of Award to be in the best interest of the City, to combine the issue of Series 2016 Notes with other securities of the City that are payable from property taxes, into a consolidated single issue pursuant to Section 133.30(B) of the Ohio Revised Code, the sale of the Series 2016 Notes may be consolidated with another issue of bond anticipation notes of the City, and titled, Various Purpose General Obligation (Limited Tax) Bond Anticipation Notes, Series 2016.

Section 6. The Series 2016 Notes shall be signed by the Mayor or President of Council and by the City Auditor or Deputy City Auditor, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Series 2016 Notes shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the City Auditor, shall be numbered as determined by the City Auditor in order to distinguish each Note from any other Note, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, this Ordinance and the Certificate of Award.

The Mayor and the City Auditor shall designate the initial Note Registrar in the Certificate of Award, and shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Note Registrar, in substantially the form as is now on file with the Clerk of Council. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor or City Auditor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The City Auditor shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Purchase Agreement, from the proceeds of the Series 2016 Notes to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Note shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Note proceedings unless and until the certificate of authentication printed on the Note is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the 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 Note Registrar or by any other person acting as an agent of the Note Registrar and approved by the City Auditor on behalf of the City. The same person need not sign the certificate of authentication on all of the Series 2016 Notes. The entire principal amount of the Series 2016 Notes may be represented by a single Note and may be issued as fully registered securities and in

book entry form or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Ohio Revised Code.

Notwithstanding any other provisions of this Ordinance, if the Mayor and the City Auditor determine in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Series 2016 Notes may be issued in book entry form in accordance with the following provisions of this Section.

The Series 2016 Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Series 2016 Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Series 2016 Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Series 2016 Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Series 2016 Notes for use in a book entry system, the City Auditor may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the City Auditor does not or is unable to do so, the City Auditor, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Series 2016 Notes from the Depository, and shall cause the Series 2016 Notes in bearer or payable form to be signed by the officers authorized to sign the Series 2016 Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

Either the City Auditor or the Deputy City Auditor may, and each is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City that the City Auditor or the Deputy City Auditor determines to be necessary in connection with a book entry system for the Series 2016 Notes.

Section 7. The Series 2016 Notes shall be sold at not less than ninety-seven per cent of the aggregate principal amount thereof, as shall be determined by the Mayor and the City Auditor in the Certificate of Award, plus accrued interest (if any) on the Series 2016 Notes from their date to the date of their delivery to the Original Purchaser, at private sale to the Original Purchaser as shall be determined by the Mayor and the City Auditor in the Certificate of Award, and shall be awarded by the Mayor and the City Auditor 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 and the Purchase Agreement. The Mayor and the City Auditor shall sign and deliver the Certificate of Award and shall cause the Series 2016 Notes to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Series 2016 Notes, to the Original Purchaser upon payment of the purchase price.

The Mayor and the City Auditor shall each sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in substantially the form now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Series 2016 Notes. The Purchase Agreement is approved, together with any changes or amendments thereto that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor and the City Auditor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

If, in the judgment of the City Auditor, the filing of an application for a rating on the Series 2016 Notes by one or more nationally-recognized rating agencies, is in the best interest of and financially advantageous to the City, the City Auditor is authorized to prepare and submit those applications, to provide to each such agency such information as may be required for the purpose, and to provide further for the payment of the costs of obtaining each such rating, except to the extent paid in accordance with the Purchase Agreement, from the proceeds of the Series

2016 Notes to the extent available and otherwise from any other lawfully available funds that are appropriated for that purpose. Any prior action that the City Auditor may have been taken with respect to obtaining such a rating is hereby approved and ratified.

Each of the Mayor, the President of Council, the City Auditor, the Deputy City Auditor, the Treasurer, the Law Director, the Clerk of Council, and other City officials, as appropriate, is 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.

Section 8. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Series 2016 Notes shall, to the extent necessary, be used to pay the debt charges on the Series 2016 Notes at maturity and are pledged for that purpose.

Section 9. That for the purpose of providing the necessary funds to pay debt charges on the Series 2016 Notes when and as due, there shall be levied on all the taxable property in the City, within the ten mill limitation, in addition to all other taxes, a direct tax annually which would have been levied if the Bonds had been issued without prior issuance of the Series 2016 Notes, 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 amount of said tax to be levied or collected in any year shall be reduced by the amount to be available for the purpose of paying debt charges on the Series 2016 Notes from (a) any surplus in the City's Bond Retirement Fund, or (b) the proceeds of sale of (i) the Bonds, (ii) any bonds of the City issued for the purpose of retiring the Series 2016 Notes at maturity, or (iii) bond anticipation notes issued to retire the Series 2016 Notes at maturity. This Council reserves the right to make additional pledges on a parity with this pledge. Said tax 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 the year 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 are hereby required to be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Series 2016 Notes or the Bonds in anticipation of which they are issued when and as the same fall due.

To the extent other funds of the City, including, without limitation, receipts from the municipal income tax, are available for the payment of the debt charges on the Series 2016 Notes or the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of those funds so available and appropriated in compliance with the covenant hereinafter set forth. To the extent necessary, the debt charges on the Series 2016 Notes and the Bonds shall be paid from municipal income taxes; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes, such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Series 2016 Notes.

Section 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Series 2016 Notes in such manner and to such extent as may be necessary so that (a) the Series 2016 Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Code or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest on the Series 2016 Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Series 2016 Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Series 2016 Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds, and, as applicable, of property

financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The City represents that the 2005 Bonds (including those 2005 Bonds refunded with proceeds from the sale of the Series 2015 Notes) at the time of their issuance were designated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City represents that the proceeds from the sale of the Series 2015 Notes were applied to the redemption of the 2005 Bonds callable for redemption at the option of the City on the earliest call date, which was within 90 days after issuance of, the Series 2015 Notes, and represents that all other conditions are met for treating the Series 2016 Notes as "qualified tax exempt obligations" and as not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation, by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code. Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Series 2016 Notes as "qualified tax exempt obligations", it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Series 2016 Notes are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

The City Auditor, the Deputy City Auditor or any other officer of the City having responsibility for issuance of the Series 2016 Notes, is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2016 Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Series 2016 Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Series 2016 Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2016 Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2016 Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Series 2016 Notes.

Each covenant made in this Section with respect to the Series 2016 Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Series 2016 Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure the exclusion of interest on the Series 2016 Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Series 2016 Notes.

Section 11. The expenditure of the amounts necessary to pay any financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the Series 2016 Notes, to the extent not paid by the Original Purchaser in accordance with the Purchase Agreement, is authorized and approved, and the City Auditor or Deputy City Auditor is authorized to provide for the payment of any such amounts and costs from the proceeds of the Series 2016 Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 12. In connection with the issuance of the Series 2016 Notes herein authorized, the law firm of Squire Patton Boggs (US) LLP is hereby retained to act as bond counsel to this City. 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 Series 2016 Notes and securities issued in renewal of the Series 2016 Notes

and rendering at delivery related legal opinions. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal fees. The City Auditor or Deputy City Auditor 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.

Section 13. To provide for the discharge of the Series 2015 Notes at their maturity from the net proceeds of the Series 2016 Notes together with other available funds of the City, lawfully available Waterworks System revenues of the City in the amount of \$370,000, representing a principal payment of \$370,000 to be applied to the payment of the Series 2015 Notes at their maturity, are hereby appropriated for that purpose and the City Auditor and Deputy City Auditor are each hereby authorized and directed to deposit those funds to the appropriate fund or funds for payment of debt charges on the Series 2015 Notes at their maturity.

Section 14. The Clerk of Council is directed to promptly deliver a certified copy of this Ordinance and a copy of the Certificate of Award, when executed, to the County Auditor of Clinton County, Ohio.

Section 15. 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 Series 2016 Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Series 2016 Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power of the City are pledged for the timely payment of the debt charges on the Series 2016 Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Series 2016 Notes.

Section 16. 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 its committees and that all deliberations of this Council and of any 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, except as otherwise permitted thereby.

Section 17. The preambles hereto are and shall for all purposes be construed to be integral and operative parts of this Ordinance.

Section 18. Pursuant to Section 731.30 of the Ohio Revised Code, this Ordinance pertains to the financing of the Improvements heretofore approved by this Council.

Section 19. This Ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, property, health, and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to permit the prompt issuance and sale of the Series 2016 Notes herein described, which is necessary to enable the City to discharge the Series 2015 Notes at their maturity on June 14, 2016. Wherefore, this Ordinance, therefore, shall be in full force and effect immediately upon its passage and approval by the Mayor.

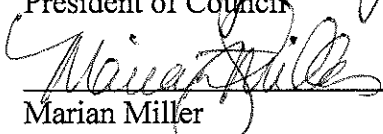
Section 20. The Clerk of Council is hereby directed to cause a succinct summary of this Ordinance to be published in accordance with Section 731.21 of the Ohio Revised Code.

Passed: 4-21, 2016



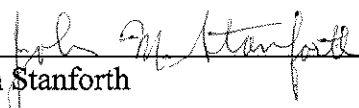
Randy Riley
President of Council

Attest:



Marian Miller
Clerk of Council

Approved: April 28th, 2016



John Stanford
Mayor

CERTIFICATE

The undersigned Clerk of Council of the City of Wilmington, Ohio, hereby certifies that the foregoing is a true copy of Ordinance No. 0-16-21 passed by the Council of the City on 4-21, 2016.



Marian Miller
Clerk of Council

RECEIPT OF COUNTY AUDITOR OF CLINTON COUNTY, OHIO

Received this 10th day of May 2016, a certified copy of the foregoing Ordinance No. 0-16-21 of the Council of the City of Wilmington, Ohio.



Terence G. Habermehl
Clinton County Auditor