



Legislation Text

File #: O-385-19, Version: 1

GONotesSidewalks

Finance

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Revised

Providing for the issuance and sale of \$1,620,000 of notes, in anticipation of the issuance of bonds, to pay costs of constructing, reconstructing and rehabilitating sidewalks, including, where necessary, driveway approaches, in certain locations on designated streets; and declaring an emergency.

SUMMARY & BACKGROUND:

This ordinance authorizes the issuance of general obligation bond anticipation notes that the City plans to sell in October of 2019. The amount received from the sale of the notes authorized by this ordinance will be used, together with other funds, to retire a prior sidewalk improvement note maturing on October 17, 2019 and to provide funding for portions of the City's 2019 Sidewalk Program. With the issuance of these notes and the retirement of the prior note, the City's outstanding debt for sidewalk improvements will be increased by a net amount of \$235,000. This additional amount will affect debt limits.

Pursuant to Ordinance No. 423-18 passed August 28, 2018, a note in anticipation of bonds in the amount of \$1,385,000 dated as of October 17, 2018, (the Outstanding Note) was issued for the purpose described in Section 1, which Outstanding Note is to mature on October 17, 2019.

This Council finds and determines that the City should retire the Outstanding Note with the proceeds of the Notes described in Section 3 and other funds available to the City and provide an additional \$760,000 for costs of the City's 2019 Sidewalk Program.

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 improvements described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is twenty years, less the period in excess of twenty years during which notes are outstanding in anticipation thereof, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is October 18, 2037.

The fiscal impact of this ordinance is as follows:

- The amount of funds requested: \$1,620,000
- The expenditure budget line item: 5057-14800-8135001STDSTD
- New revenue generated (operational revenue, grants, if any): \$235,000
- Revenue budget line item (if any): 5057-14800-8135001STDSTD
- Are funds budgeted in the current fiscal year (yes/no)? Yes.
- Is this a capital project (yes/no)? No.
- If yes, is it new or existing (new/existing)? Existing.
- What section of the City's Strategic Plan does this support:

- Excellence in Basic Services (yes/no) Yes.
- Quality Community Investment (Livable City, Development) (yes/no) Yes.
- Workplace Culture & Customer Service (yes/no) No.
- Environment (yes/no) Yes.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That it is necessary to issue bonds of this City in the aggregate principal amount of \$1,620,000 (the Bonds) to pay costs of (a) improving 104th Street, 106th Street, 111th Street, 114th Street, 116th Street, 130th Street, 286th Street, 296th Street, 298th Street, 303rd Street, Algonquin Parkway, Alldays Avenue, Alvison Road, Andora Drive, Bancroft Street, Barrington Drive, Barrows Street, Bateman Street, Beechway Boulevard, Bellevue Road, Belmont Avenue, Berkshire Place, Berry Street, Blair Court, Bond Street, Bronson Avenue, Buffalo Street, Burnham Avenue, California Boulevard, Central Avenue, Cheltenham Road, Clarendon Drive, Clark Street, Cloverdale Road, Colburn Street, Colima Drive, Consaul Street, Copland Boulevard, Coventry Avenue, Crestwood Road, Darrow Avenue, Densmore Drive, Dorr Street, Drummond Road, East Bancroft Street, East Pearl Street, Edgewater Drive, Elm Street, Erie Street, Fern Drive, Fernwood Avenue, Franklin Avenue, Fulton Street, Gill Street, Glastonberry Road, Glendale Avenue, Glenwood Avenue, Gould Road, Gradolph Street, Grand Avenue, Grantwood Drive, Greenwood Avenue, Hagley Road, Haddington Drive, Hausman Street, Heffner Street, Herman Place, Hermosa Avenue, Higgins Street, Holly Glenn Drive, Homestead Street, Hurd Street, Independence Road, Indiana Avenue, Jervis Street, Kedron Street, Keil Road, Kelsey Avenue, Kingsbury Avenue, Kingston Avenue, Lagrange Street, Lakewood Street, Lawrence Avenue, Lockwood Avenue, Lodge Avenue, Lorain Street, Lynnhaven Drive, Maplewood Avenue, Maxwell Road, Mayberry Street, Melody Lane, Miles Avenue, Mulberry Street, Nebraska Avenue, North Lockwood Avenue, North St. Clair Street, Oak Street, Oakmont Street, Oliver Street, Ontario Street, Pasadena Boulevard, Pool Street, Portsmouth Avenue, Potomac Drive, Powhattan Parkway, Princeton Drive, Prospect Avenue, Prouty Avenue, Radcliffe Drive, Raymer Boulevard, Rivard Road, Rockingham Street, Robinwood Avenue, Rose Garden Drive, Rugby Drive, Secor Road, Selkirk Street, South Avenue, Spring Street, Stannard Drive, Stickney Avenue, Sumner Street, Tecumseh Street, Thomas Street, Utah Street, Vermont Avenue, Waggoner Boulevard, Walker Avenue, Wallwerth Drive, Warsaw Street, West Bancroft Street, West Central Avenue, West Crawford Avenue, West Foulkes Street, West Gramercy Avenue, Westland Avenue, West Poinsetta Avenue, Wildwood Boulevard, Willard Street, Willys Parkway, Winston Boulevard, Woodford Street, Woodland Avenue and Woodsdale Avenue by constructing and reconstructing sidewalks and driveway approaches, where necessary, together with necessary appurtenances and work incidental thereto, in the locations and in the manner provided in Resolution No. 187-17 adopted on May 2, 2017, (b) improving 2nd Street, 4th Street, 12th Street, 102nd Street, 104th Street, 106th Street, 116th Street, 130th Street, 131st Street, 286th Street, 296th Street, 298th Street, 299th Street, Algonquin Parkway, Alvison Road, Anderson Parkway, Arden Place, Arlington Avenue, Auburn Avenue, Bancroft Street, Barrington Drive, Barrows Street, Bateman Street, Beaumont Drive, Beechway Boulevard, Bell Avenue, Belmar Avenue, Berdan Avenue, Berkshire Place, Berry Street, Beverly Drive, Bobolink Lane, Bond Street, Boody Street, Boston Place, Botkins Drive, Bowen Road, Bricker Avenue, Brigham Street, Broadway Street, Buckingham Street, Burlingame Drive, Burnham Avenue, Butler Street, Butterfield Drive, California Boulevard, Campbell Street, Carbon Street, Carver Boulevard, Central Avenue, Charlestown Avenue, Cheltenham Road, Chestnut Street, Chicago Street, Clark Street, Clover Lane, Cloverdale Road, Colburn Street, Collins Park Avenue, Columbia Street, Congress Street, Copland Boulevard, Crestwood Road, Cummings Avenue, Cyril Street, Dawson Street, Delaware Avenue, Densmore Drive, Dorr Street, Douglas Road, Dover Place, Drummond Road, East Manhattan Boulevard, East Oakland Street, East Pearl

Street, Earl Street, Edgewater Drive, Edgewood Drive, Elaine Drive, Elm Street, Elmhurst Road, Elmway Drive, Elsie Avenue, Essex Street, Evans Street, Evansdale Avenue, Evesham Avenue, Fairfax Avenue, Fairfax Road, Fassett Street, Fernwood Avenue, Foraker Avenue, Foxchapel Road, Francis Avenue, Franklin Avenue, Freeman Street, Fulton Street, Geneva Avenue, Georgetown Avenue, Gilbert Road, Ginger Tree Lane, Glanzman Road, Glendale Avenue, Glengate Drive, Glenridge Drive, Glenview Road, Glenwood Avenue, Grantwood Drive, Greenridge Drive, Greenridge Lane, Greenwood Avenue, Grimes Golden Drive, Haddington Drive, Hagley Road, Hallgate Road, Hamilton Street, Harmony Lane, Hausman Street, Hawley Street, Hazelhurst Avenue, Heffner Street, Hilltop Boulevard, Hilltop Lane, Holly Glenn Drive, Holyoke Drive, Homestead Street, Homewood Avenue, Howland Avenue, Hurd Street, Hurley Drive, Huron Street, Inwood Drive, Irma Place, Islington Street, Ivy Place, Jervis Street, Kedron Street, Kensington Road, Kingsbury Avenue, Kingston Avenue, Kipling Drive, Lagrange Street, Lakewood Street, Langdon Street, Latonia Boulevard, Laurel Avenue, Lawrence Avenue, Lebanon Street, Lemert Street, Liberty Street, Linda Drive, Lockwood Avenue, Locust Street, Loxley Road, Lucas Street, Madison Avenue, Mansfield Street, Maple Street, Mapleway Drive, Maplewood Avenue, Maryland Avenue, Mason Street, Maumee Avenue, Maxwell Maxwell Road, Mayberry Street, McDonald Street, McKinley Avenue, Medford Drive, Midvale Avenue, Miles Avenue, Milroy Avenue, Monroe Street, Moran Avenue, Morrison Drive, Mott Avenue, Mulberry Street, Murnen Road, North Cove Boulevard, North Holland Sylvania Road, North Huron Street, North Michigan Street, North Superior Street, North Westwood Avenue, National Avenue, Nebraska Avenue, Northridge Drive, Northwyck Drive, Oak Street, Oakwood Avenue, Orchard Street, Ottawa River Road, Overland Parkway, Page Street, Palmer Street, Parker Avenue, Parklen Court, Parkside Boulevard, Parkwood Avenue, Pasadena Boulevard, Phillips Avenue, Pinewood Avenue, Pool Street, Powhattan Parkway, Princeton Drive, Prospect Avenue, Prouty Avenue, Putnam Street, Rambo Lane, Raymer Boulevard, Revere Drive, Robinwood Avenue, Rollins Road, Rosedale Avenue, Royalton Road, Rugby Drive, Rushland Avenue, South Detroit Avenue, South Hawley Street, Sandra Court, Sandra Drive, Scottwood Avenue, Searles Road, Secor Road, Segur Avenue, Selkirk Street, Sheldon Street, Sherbrooke Road, Shoreland Avenue, Spring Grove Avenue, St Louis Street, Stannard Drive, Starr Avenue, State Street, Steadman Street, Steel Street, Sunset Sherbrooke Boulevard, Tecumseh Street, Tetherwood Drive, Thoman Place, Thomas Street, Thurston Street, Toronto Avenue, Twining Street, Underwood Avenue, Utah Street, Valentine Street, Valleywood Drive, Vassar Drive, Vermaas Avenue, Vermont Avenue, Victoria Place, Victory Avenue, West Benalex Drive, West Capistrano Avenue, West Central Avenue, West Crawford Avenue, West Gramercy Avenue, West Park Street, West Sylvania Avenue, West Woodruff Avenue, Waggoner Boulevard, Waite Avenue, Walbridge Avenue, Walker Avenue, Wallwerth Drive, Warsaw Street, Wasaon Street, Watson Avenue, Waverly Avenue, Wellesley Drive, Western Avenue, Westland Avenue, Westway Street, Whitlock, Whittemore Street, Wildwood Boulevard, Willard Street, Willow Avenue, Willowhill Lane, Willys Parkway, Winsted Drive, Winston Boulevard, Woodford Street, Woodhaven Drive, Woodland Avenue, Woodmont Road, Woodruff Avenue, Woodsdale Avenue, Woodville Road and Wright Avenue by constructing and reconstructing sidewalks and driveway approaches, where necessary, together with necessary appurtenances and work incidental thereto, in the locations and in the manner provided in Resolution No. 188-18 adopted on June 5, 2018, (c) improving 116th Street, 285th Street, 287th Street, 288th Street, Abbott Avenue, Airport Highway, Auburn Avenue, Barrington Drive, Beaufort Avenue, Beaumont Drive, Belmont Avenue, Brame Place, Bowen Road, Broadway Street, Broer Avenue, Brookley Boulevard, Burnham Avenue, California Boulevard, Calumet Avenue, Camden Street, Camp Street, Carroll Place, Cecelia Avenue, Charleston Avenue, Christie Street, Cone Street, Darlington Road, Decatur Street, Dianne Court, Division Street, Drexel Drive, East Broadway Street, East Manhattan Boulevard, East Park Street, Eastern Avenue, Evansdale Avenue, Evanston Court, Escott Avenue, Evesham Avenue, Fairview Drive, Fern Drive, Fernwood Avenue, Foxchapel Road, Frederick Street, Garfield Place, Geneva Avenue, Georgetown Avenue, Gibbons Street, Glendale Avenue, Glenview Road, Glenwood Avenue, Goodwood Avenue, Grantwood Drive, Hearthstone Place, Heathshire Drive, Hill Avenue, Hinsdale Road, Hoag Street, Howland Avenue, Idaho Street, Irma Place, Jackson Street, Kalida Drive, Joffre Street, Kensington Road, Kenwood Boulevard, Kershaw Avenue, Lambert Drive, Langdon

Street, Lawrence Avenue, Lewis Avenue, Lincoln Avenue, Macomber Street, Mansfield Road, Mapleway Drive, Marlow Road, Marmion Avenue, Mayport Drive, Meadowbrook Court, Monroe Street, Moore Street, Nebraska Avenue, Nevada Street, North Cove Boulevard, North Michigan Street, North Ontario Street, North Richardson Drive, North Superior Street, Norwood Avenue, Oakmont Street, Orchard Street, Overland Parkway, Ottawa River Road, Palmwood Avenue, Perth Street, Pinewood Avenue, Pool Street, Prouty Avenue, River Road, Robinwood Avenue, Rushland Avenue, Schiley Street, Segur Avenue, Shea Street, Shenandoah Road, Sherbrooke Road, South Avenue, South Byrne Road, Stannard Drive, Strathmoor Avenue, Tecumseh Street, Third Street, Thurston Street, Turner Avenue, Turret Green Drive, Upton Avenue, Vance Street, Vinal Street, Walbridge Avenue, Walsh Street, Warren Street, Watson Avenue, West Capistrano Avenue, West Crawford Avenue, West Delaware Avenue, West Laskey Road, Whitegate Drive, Whiting Avenue, Wildwood Boulevard, Wildwood Road, Willard Street, Winston Boulevard, Winthrop Street and Woodville Road by rehabilitating concrete sidewalks and driveway approaches, where necessary, together with necessary appurtenances and work incidental thereto, in the locations and in the manner provided in Resolution No. 107-19, adopted on March 5, 2019, and (d) improving 111th Street, 113th Street, 119th Street, 286th Street, Annabelle Drive, Austin Street, Avondale Avenue, Balkan Place, Beaumont Drive, Berdan Avenue, Blackstone Drive, Brame Place, Branbury Road, Bricker Avenue, Brown Avenue, Buckingham Street, Burger Street, Burke Glen Road, Burnham Avenue, Camp Street, Carver Boulevard, Cecelia Avenue, Charlestown Avenue, Cheltenham Road, Cherrylawn Drive, Christie Boulevard, Clifton Boulevard, Clymena Street, Colburn Street, Cone Street, Dartmouth Drive, Dellwood Drive, Douglas Road, Drummond Road, Dunderry Lane, East Lake Street, East Manhattan Boulevard, East Oakland Street, Eleanor Avenue, Evansdale Avenue, Evesham Avenue, Fernwood Avenue, Francis Avenue, Fredonia Street, Gilbert Road, Glendale Avenue, Gloucester Drive, Goddard Road, Greystone Parkway, Gribbin Lane, Hagley Road, Hamilton Street, Hargrave Road, Harley Road, Hilltop Boulevard, Hilltop Lane, Homewood Avenue, Independence Road, Ivy Place, Kenilworth Avenue, Kenwood Boulevard, Kingswood Trail, Lawrence Avenue, Lawton Avenue, Lockwood Avenue, Macomber Street, Maple Street, McDonald Street, Mettler Street, Middlesex Drive, Monroe Street, North Byrne Road, North Hawley Street, North Huron Street, North Lockwood Avenue, North Ontario Street, Northtowne Drive, Oakdale Avenue, Orchard Street, Ottawa River Road, Otto Street, Parker Avenue, Pasadena Boulevard, Perth Street, Peru Street, Pinewood Avenue, Pool Street, Potomac Drive, Prouty Avenue, Putnam Street, Redondo Avenue, Regina Parkway, Rivard Road, River Road, Robinwood Avenue, Rockcross Drive, Ruthanne Drive, San Joaquin Drive, San Paulo Drive, Schley Street, Scottwood Avenue, Sheila Drive, Stannard Drive, Sunset Boulevard, Thatcher Drive, Truxton Place, Valleywood Drive, Victoria Place, West Alexis Road, West Capistrano Avenue, West Delaware Avenue, West Poinsetta Avenue, Westway Street, Wildwood Road, Willard Street, Willowhill Lane, Woodsdale Avenue and Woodward Avenue, Worley Place, by rehabilitating concrete sidewalk and driveway approaches, where necessary, together with necessary appurtenances and work incidental thereto, in the locations and in the manner provided in locations provided in Resolution No. 280-19, adopted on June 11, 2019.

SECTION 2. That the Bonds shall be dated approximately October 1, 2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty annual principal installments that are substantially equal. The first installment of principal of the Bonds is estimated to be payable on December 1, 2021, and the first installment of interest on the Bonds is estimated to be payable on December 1, 2020.

SECTION 3. That it is necessary to issue and this Council determines that notes in the aggregate principal amount of \$1,620,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Note. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance, provided that the Director of Finance may, if it

is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is up to seven days earlier than one year from the date of issuance, by setting forth that maturity date in the certificate awarding the Notes in accordance with Section 6 of this ordinance (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity or upon prepayment and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. That the debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America, without deduction for services of the City's paying agent, at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A., or at the designated office of another bank or trust company requested by the original purchaser of the Notes, provided that such request shall be approved by the Director of Finance after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose (the Paying Agent). The Director of Finance is authorized to enter into any agreements determined necessary in connection with obtaining the services of a Paying Agent for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

If agreed to by the original purchaser, the Notes shall be prepayable without penalty or premium at the option of the City on any date or on or after a date to be determined by the Director of Finance in the Certificate of Award. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the date of prepayment. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the date of prepayment and the name and address of the Paying Agent, by certified or registered mail or overnight courier to the original purchaser and to the Paying Agent not less than seven days prior to the date of prepayment. If money for prepayment is on deposit with the Paying Agent on the specified prepayment date following the giving of that notice, interest on the principal amount prepaid shall cease to accrue on the prepayment date, and upon the request of the Director of Finance, the original purchaser shall deliver the Notes at the designated office of the Paying Agent for prepayment, surrender and cancellation.

SECTION 5. That the Notes shall be signed by the Mayor and Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the original purchaser and approved by the Director of Finance, provided that the entire principal amount may be represented by a single note and that no note shall be issued in a denomination less than \$100,000 or exchangeable for other Notes in denominations less than \$100,000. The Notes may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry form in accordance with Section 9.96 and Chapter 133 of the Ohio Revised Code, with a single physical note certificate representing the entire issue (or the consolidated issue into which it is combined with one or more other note issues of the City in accordance with Section 6 of this ordinance), if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance.

As used in this Section and this ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of

beneficial interests in the Notes and the principal of, and interest on, the Notes (book entry interests) may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Note deposited with and retained in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of book entry interests in the Notes and that principal and interest.

“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 the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

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

The 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 Notes may be issued in the form of a single Note made payable to the Depository or its nominee and deposited with and retained in the custody of the Depository or its agent for that purpose; (ii) the owners of book entry interests shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of book entry interests shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its Participants; and (iv) the 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 Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable form to be signed by the officers authorized to sign the 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.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. That the Notes shall be sold by the Director of Finance at private sale at a price not less than par and accrued interest, in accordance with law and the provisions of this ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 specifying the interest rate the Notes shall bear, the final purchase price for the Notes and certain other final terms of the Notes as provided in this ordinance and evidencing that sale, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price. The Mayor, the Director of Law, the Director of Finance, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to

take such actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other unvoted general obligation bond anticipation note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Ohio Revised Code.

SECTION 7. That the proceeds from the sale of the Notes, 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 Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. That 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 Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. That during the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. 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 Notes or the Bonds when and as the same fall due.

SECTION 10. That the City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the 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 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 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 Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the 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 Notes as the City is permitted to 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 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 Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the 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 Notes.

Each covenant made in this Section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refunding issues), to the extent such compliance is necessary to assure exclusion of interest on the 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 Notes.

SECTION 11. That as used in this ordinance, “Director of Finance” shall mean the person at the time performing the duties of the chief fiscal officer of the City; “Mayor” shall mean the person at the time performing the duties of the chief executive officer of the City; and “Director of Law” shall mean the person at the time performing the duties of the chief legal officer of the City.

SECTION 12. That the legal services of the law firm of Squire Patton Boggs (US) LLP be and are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes, any renewal notes and the Bonds 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 services.

The expenditure of the amounts necessary to secure those legal services and any such ratings, as well as to pay the other financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the issuance of the Notes, is hereby authorized and approved and the amounts necessary to pay those costs are hereby appropriated from the proceeds of the Notes and otherwise from Account Code 5057-14800-8135001STDSTD (Debt Costs of Issuance).

SECTION 13. That the Clerk of Council is directed to deliver a certified copy of this ordinance and a signed copy of the Certificate of Award to the County Auditor, after each become available.

SECTION 14. That this Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City of Toledo have been performed and have been met, or will at the time of delivery of the 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 (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 15. That 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, and that all deliberations of this Council and any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION 16. That this ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and property of the City, and for the further reason that this ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to timely retire the Outstanding Note and thereby preserve its credit; wherefore, this ordinance shall be in full force and effect immediately upon its passage or at the earliest time allowed by law.

Vote on emergency clause: yeas 12, nays 0.

Passed: September 3, 2019, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

September 3, 2019
Wade Kapszukiewicz
Mayor