

ORDINANCE NO. 196-24

Introduced by _____ Councilor

Seconded by _____ Councilor

Form Approved ABC/18 Director of Law

PUBLICATION: I hereby certify that this Ordinance was published in a summary manner according to law in the Lima News on _____

Dana Addis, Clerk

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$118,500 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE PROPERTY OWNERS' PORTION, IN ANTICIPATION OF THE LEVY AND COLLECTION OF SPECIAL ASSESSMENTS, OF THE COSTS OF CONSTRUCTING SIDEWALKS AT VARIOUS LOCATIONS IN THE CITY, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, IN THE MANNER PROVIDED IN RESOLUTION NO. 018-23 AND ORDINANCE NO. 033-24, AND DECLARING AN EMERGENCY.

VOTE	1ST		2ND		3RD	
	Y	N	Y	N	Y	N
GORDON						
WILKERSON						
THOMPSON						
JORDAN						
JONES						
GLENN						
NEEPER						
DIXON						
TOTAL						

PREAMBLE: The purpose and authority of and for this ordinance are set forth as follows:

WHEREAS, this Council has previously by proper legislation declared the necessity of the Improvement described in Section 1 and caused the construction of the Improvement to commence; and,

WHEREAS, the Auditor, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the Improvement described in Section 1 is at least five (5) years, the estimated maximum maturity of the Bonds described in Section 1 is five (5) years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is sixty (60) months from their date of issuance; and,

WHEREAS, Council finds that passage of this ordinance is necessary because of the immediate need for the action authorized herein to meet project or administrative operational deadlines, and in order to preserve the public peace, property, health, safety, and welfare of the community and its citizens, and to provide for the efficient and effective operation of the municipal government, and by reason thereof, this Ordinance constitutes a matter of administrative emergency and shall take effect immediately upon its passage, as set forth in Section 33 of the City Charter; Now, Therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LIMA, OHIO, WITH AT LEAST A MAJORITY OF THE MEMBERS ELECTED THERETO CONCURRING:

Section 1. Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$118,500 (the "Bonds") for the purpose of paying the property owners' portion, in anticipation of the levy and collection of special assessments, of the costs of constructing sidewalks at various locations in the City, together with all necessary appurtenances thereto, in the manner provided in Resolution No. 018-23 and Ordinance No. 033-24 (the "Improvement").

Section 2. Estimated Bond Terms. The Bonds shall be dated approximately October 1, 2025, shall bear interest at the now estimated rate of 5.00% per year, payable semiannually until the principal amount is paid, and are estimated to mature in five annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2025, and the first principal payment on the Bonds is estimated to be December 1, 2026.

Section 3. Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$118,500 (the "Notes") shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature not more than one year following the date of issuance, *provided* that the Auditor and the Director of Finance shall establish the maturity date in the certificate awarding the Notes (the "Certificate of Award") in accordance with Section 6 of this Ordinance. The Notes shall bear interest at the rate of 4.00% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for.

Section 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in lawful money of the United States of America at the office of the Treasurer (the "Paying Agent").

Section 5. Execution of Notes. The Notes shall be signed by the Mayor, the Auditor and the Director of Finance, in the name of the City and in their official capacities, *provided* that all but one of those signatures may be a facsimile. The entire principal shall be represented by a single note, which shall not have coupons attached, shall be numbered as determined by the Auditor and the Director of Finance and shall express upon its face the purpose, in summary terms, for which it is being issued and that it is issued pursuant to this Ordinance.

Section 6. Award and Sale of the Notes. The Notes are offered at a purchase price, not less than par, as shall be determined by the Auditor and the Director of Finance, plus any accrued interest, to the Treasury Investment Board of the City for investment under Section 731.56 of the Ohio Revised Code. Any Notes not purchased by the Treasury Investment Board shall be sold at not less than 100% of par plus accrued interest at private sale by the Auditor and the Director of Finance in accordance with law and the provisions of this Ordinance. The Auditor and the Director

of Finance shall sign the Certificate of Award awarding and selling the Notes and evidencing the designation authorized to be made herein and shall 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 Auditor, the Director of Finance, the Director of Law, the Treasurer, the Clerk of Council and other City officials, as appropriate, and any person serving in an interim or acting capacity for any such official, each are 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 Auditor and the Director of Finance are each 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 note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated note issue if appropriate and consistent with the terms of this Ordinance.

Section 7. Application of Proceeds. 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. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. 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. Provision for Tax Levy. 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.

All special assessments collected for the Improvement described in Section 1 shall be used for the payment of the debt charges on the Notes or the Bonds until paid in full. In each year to the extent receipts from the levy of the special assessments for the Improvement are available for the payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of receipts so available and appropriated.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose, and to the extent not paid from special assessments, the amount of the tax shall be reduced by the

amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Notes or the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and the laws of the State of Ohio, and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the two preceding paragraphs in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Notes or the Bonds.

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

Section 11. Satisfaction of Conditions for Note Issuance. 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 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 12. Retention of Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP 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 and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. 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 Auditor and the Director of Finance are each 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. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

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

and that all deliberations of this Council and of any of its 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.

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

Section 15. The Auditor is authorized to take any action and to account for the activity authorized herein, as is appropriate under the circumstances of this ordinance and in accordance with City policies and procedures, or as otherwise required by law, as the Auditor may determine is appropriate. The Law Director is authorized to: determine the correct business or corporate entity necessary for any contract authorized in this ordinance; determine the correct legal description for any real property at issue in this ordinance; correct any error in any exhibit to this ordinance; correct any clear scrivener error in this ordinance and to provide a clean copy for the council clerk; all as determined appropriate by the Law Director.

Section 16. Council finds and determines that the above preamble contains specific findings by Council as part of and in support of passage of this Ordinance, and that all formal actions of this Council and any of its committees concerning and relating to the adoption of this ordinance were taken in an open meeting and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings held in compliance with the law.

Section 17. In passing this ordinance Council hereby intends to and hereby expressly does invoke, assert, implement, and exercise the authority of the City under the Ohio Constitution, its Home Rule authority, and its Charter authority, to the fullest extent possible. To that end, Council hereby finds and declares that the subject matter of this ordinance is a matter of local concern only, and is thereby a matter of local self-government; or if this ordinance is determined to be an exercise of the City's police power that this ordinance is not in conflict with the general laws of the State. Therefore, it is the express intent of Council that the provisions of this ordinance shall prevail over any provisions of state law that might otherwise be applicable. This includes but is not limited to all administrative action regarding all advertising, bidding, contracting, procurement, purchasing, sales, disposition, or other manner or method which was followed or will be followed in dealing with the subject matter of this ordinance. Council hereby approves, authorizes, ratifies, and affirms all methods and procedures taken or followed (or to be taken or followed) leading to the award and execution of any contract, or purchase of goods or services, or any other action taken under authority of this ordinance or otherwise authorized herein, written or oral. Council expressly finds that the action authorized in this ordinance, and the procedures followed in carrying out the provisions or authorizations of this ordinance, including any leading to the award and execution or implementation of any contract, sale, or purchase, is authorized and passed under authority of the City's Charter, including but not limited to City Charter Sections 1 and 81, and its constitutional home rule authority, and is in the best interests of the City.

Section 18. The Clerk of the Council is authorized and directed to cause publication of this ordinance to be made in a summary manner as provided by the City Charter.

Section 19. In accordance with City Charter Section 33, this ordinance shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the first reading hereof. If it does not so pass at first reading, it shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the second reading hereof. If it does not so pass at second reading then it shall take effect and be in force forthwith upon passage by an affirmative vote of at least a majority of the members elected to council at the third reading hereof. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2024

Jamie L. Dixon, President

Approved: _____, 2024

Sharetta T. Smith, Mayor

ATTEST: _____
Dana Addis, Clerk of Council