

ORDINANCE NO 1751-2021

*Introduced by: Mrs. Cochran  
Dispense with the Three Readings*

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$5,400,000 OF NOTES IN ANTICIPATION OF GENERAL OBLIGATION BONDS FOR THE PURPOSE OF CONSTRUCTING, RENOVATING AND IMPROVING BUILDINGS FOR USE AS A COMMUNITY CENTER, ADMINISTRATION BUILDING, FIRE STATION, POLICE STATION AND PUBLIC SERVICES BUILDING, AND DECLARING AN EMERGENCY.

WHEREAS, this village council has heretofore by proper legislation determined to construct, renovate and improve buildings for use as a community center, administration building, fire station, police station and public services building as a single project (collectively, the "Project"); and

WHEREAS, this municipality has applied for a loan from the United States of America, acting through the Rural Housing Service, United States Department of Agriculture (the "Government") to permanently finance a portion of the cost of the Project, which loan is to be in the form of general obligation bonds issued under the provisions of Chapter 133 of the Ohio Revised Code (the "Act") in a an aggregate principal amount of not to exceed \$5,400,000 (the "Government Loan"); and

WHEREAS, the Village Fiscal Officer, as fiscal officer of this municipality, has certified that the estimated life of the improvements constituting the Project is at least five (5) years, and has further certified the maximum maturity of such bonds as twenty-eight (28) years, and of notes to be issued in anticipation thereof is twenty (20) years; and

WHEREAS, this municipality levies a municipal income tax pursuant to Chapter 718 of the Ohio Revised Code (as the same may be amended and supplemented from time to time, the "Municipal Income Tax"); and

WHEREAS, this village council anticipates that the principal of and interest on such bonds will be paid from the general revenues of this municipality, including proceeds of the Municipal Income Tax (collectively, the "Revenues"), and on such notes from the Revenues and proceeds of such bonds or renewal notes; and

WHEREAS, Huntington Public Capital Corporation (the "Purchaser") has offered to purchase notes in anticipation of such bonds on the terms set forth herein;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Lakemore, Ohio (hereinafter called the "Municipality"), that:

SECTION 1. It is necessary to issue bonds of the Municipality (the "Bonds") in the principal amount of \$5,400,000 for the purpose of paying part of the cost of the Project, including "financing costs" as defined in Section 133.01 of the Act relating to the Bonds,

under authority of the general laws of the State of Ohio, particularly the Act. The Bonds shall be dated approximately January 1, 2024, shall bear interest at the estimated average rate of two and twenty-five hundredths percent (2.25%) per annum and shall mature in substantially equal annual or semiannual installments of principal and interest for a period not exceeding twenty-eight (28) years after their issuance.

SECTION 2. It is hereby determined that notes (the “Notes”) shall be issued in anticipation of the Bonds. The Notes shall (i) be issued in the principal amount of \$5,400,000 for the purpose aforesaid, (ii) be dated their date of initial delivery to the Purchaser, and (iii) be numbered from R-1 upwards in order of issuance, as a single fully registered Note. The unpaid principal amount of the Notes from time to time shall bear interest at the rate of one and seventy-four hundredths percent (1.74%) per annum, calculated on the basis of a 360 day year comprised of twelve 30-day months and payable on January 1 and July 1 of each year, commencing July 1, 2022, and at maturity, and shall mature not later than January 1, 2024.

There shall be two disbursements of the purchase price of the Notes by the Purchaser to the Municipality: (i) the first disbursement shall occur on the date that the Notes are initially delivered to the Purchaser and be in an amount to be agreed to by the Municipality and the Purchaser; (ii) and the second disbursement shall occur on a date to be agreed to by the Municipality and the Purchaser but in no event later than April 1, 2022 and be in an amount equal to the difference between the amount of the first disbursement and such purchase price. Interest shall accrue on the amount of each such disbursement from the actual date of such disbursement.

The Notes shall be callable for redemption the option of the Municipality in whole at any time on or after January 1, 2023 at a price equal to the principal amount to be redeemed plus accrued interest to the date of redemption. The Municipality shall send notice of such optional redemption by first class mail, postage prepaid, to the registered holders of the Notes at least 30 days prior to the date of redemption.

It is hereby determined that the issuance of the Notes upon the terms described herein, including the redemption provisions specified above, will be in the best interest of the Municipality.

The Notes shall be designated “Various Buildings Improvements Bond Anticipation Notes, Series 2022”, or as may be otherwise set forth in the Notes.

SECTION 3. The Notes shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this ordinance. The Notes shall be in fully registered form without coupons. The Notes shall bear the signature of the Mayor or Village Administrator or a facsimile thereof, and shall bear the signature of the Village Fiscal Officer. The final principal and interest amount of each Note shall be payable at the office of the Village Fiscal Officer as the paying agent, registrar and transfer agent (the “Paying Agent and Registrar”) for the Notes, and all other principal and interest on the Notes shall be made on each interest payment date to the person whose name appears on the fifteenth day preceding each interest payment date on the Note registration records to be maintained by the Paying Agent and Registrar as the registered holder thereof, by check or draft mailed to such registered holder at such holder’s address as it appears on such registration records.

The Notes shall not be transferable until the entire principal amount thereof has been disbursed to the Municipality. Thereafter, the Notes shall be transferable by the registered holder thereof in person or by such holder's attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The Municipality and the Paying Agent and Registrar shall not be required to transfer any Note during the fifteen-day period preceding any interest payment date or the mailing of a notice of redemption, or after such Note has been selected for partial or complete redemption, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new Note or Notes of authorized denominations of the same maturity and for the same aggregate unpaid principal amount will be issued to the transferee in exchange therefor.

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

SECTION 4. The Notes shall be the full general obligations of the Municipality and the full faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the same. Any excess fund resulting from the issuance of the Notes, shall to the extent necessary be used only for the retirement of the Notes upon option redemption or at maturity, together with interest thereon, and is hereby pledged for such purpose.

SECTION 5. During the period while the Notes run there shall be levied upon all of the taxable property in the Municipality within applicable limitations, in addition to all other taxes, a direct tax annually, not less than that which would have been levied if the Bonds had been issued without the prior issue of the Notes. Said tax shall be placed before and in preference to all other items and for the full amount, and shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected; provided, however, that in each year to the extent that the Revenues, the proceeds of the Bonds or the Government Loan, or moneys from other sources are available for the payment of the Notes and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Municipality shall be reduced by the amount of the Revenues or other moneys so available and appropriated.

In addition, so long as any of the Notes are outstanding, this village council hereby covenants on behalf of the Municipality and its officials pursuant to the authorization of Sections 133.05(B)(7) of the Act and 5705.51(A)(5) of the Ohio Revised Code that (i) the principal of and interest on the Notes (the "Debt Charges") shall be paid from lawfully available proceeds of the Municipal Income Tax to the extent needed to meet such Debt Charges, and (ii) the Municipality shall continue to levy and collect the Municipal Income Tax in amounts necessary to meet such Debt Charges and shall appropriate annually from lawfully available proceeds of the Municipal Income Tax such amounts as are necessary to meet such annual Debt Charges on the Notes to the extent not otherwise provided for.

The Revenues, the proceeds of the Bonds and the Government Loan, and the funds derived from said property tax levies hereby required to be applied to the payment of the Debt Charges, shall be placed in a separate and distinct fund and, together with interest collected

on the same, shall be and hereby are irrevocably pledged for the payment of the Debt Charges on the Notes and the Bonds when and as the same fall due.

It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuance of the Notes in order to make the same legal, valid and binding obligations of the Municipality have been done, have happened and have been performed in regular and due form as required by law, and that such issue of the Notes and the tax for the payment of their principal and interest as the same fall due and are payable do not exceed any limitations of indebtedness or taxation fixed by law.

SECTION 6. The Notes shall be sold to the Purchaser at par and accrued interest, in accordance with its December 22, 2021 offer to purchase, which is hereby accepted. The proceeds from the sale of the Notes, except as any premium and accrued interest received, shall be used for the purpose aforesaid and for no other purpose; and any premium and accrued interest received from such sale shall be transferred to the bond retirement fund to be applied to the payment of the principal and interest of the Notes in the manner provided by law.

The Mayor, the Village Administrator and the Village Fiscal Officer and other appropriate officials of the Municipality, are each hereby separately authorized, without further action of this village council, to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of Dinsmore & Shohl LLP, bond counsel for the Notes, in order to effect the issuance of the Notes and the intent of this ordinance. The Village Fiscal Officer shall certify a true transcript of all proceedings had with respect to the issuance of the Notes, along with such information from the records of the Municipality as is necessary to determine the regularity and validity of the issuance of the Notes.

SECTION 7. This village council hereby covenants that it will restrict the use of the proceeds of the Notes hereby authorized in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the “Code”) and the regulations prescribed thereunder, including any expenditure requirements, investment limitations or rebate requirements. The Village Fiscal Officer or any other officer having responsibility with respect to the issuance of the Notes is authorized and directed to give an appropriate certificate on behalf of this Municipality on the date of delivery of the Notes for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

The Notes are hereby designated as “qualified tax-exempt obligations” to the extent permitted by Section 265(b)(3) of the Code. This village council finds and determines that the reasonably anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by the Municipality during this calendar year does not and this Council hereby covenants that, during such year, the amount of tax-exempt obligations issued by the Municipality and designated as “qualified tax-exempt obligations” for such purpose will not exceed \$10,000,000. The Village Fiscal Officer and other appropriate officers, and any of them, are authorized to take such actions and give such

certifications on behalf of the Municipality with respect to the reasonably anticipated amount of tax-exempt obligations to be issued by the Municipality during this calendar year and with respect to such other matters as appropriate under Section 265(b)(3).

SECTION 8. So long as any of the Notes remain unpaid the Municipality shall use its best efforts and will take all actions necessary to provide for the timely authorization, issuance, sale and delivery of the Bonds, the Government Loan or an issue of renewal notes, under authority of the Act in a principal amount at least sufficient, after allowing for any other funds that may be available, or for any other effective provisions that may have been made for the purpose, to retire all outstanding Notes at their maturity, and will accept such price for the Bonds or such notes, or the terms of the Government Loan, and such interest rate or rates thereon as necessary to permit this to be done, all within any limitations imposed by applicable law.

The Municipality shall, at any and all times and to the extent permitted by law, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purpose of the Notes and this ordinance. The provisions of this ordinance shall constitute a contract between the Municipality and the holders of any of the Notes, and after the issuance of the Notes this ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interest of the Noteholders, nor shall this village council adopt any law, ordinance or resolution in any way adversely affecting the rights of the Noteholders so long as any Notes or interest thereon remains unpaid. All of the obligations set forth and covenants made under this ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon this village council and the various officers of the Municipality within the meaning of Section 2731.01 of the Ohio Revised Code.

SECTION 9. Dinsmore & Shohl LLP, attorneys, be and are hereby retained as bond counsel to the Municipality with respect to the issuance of the Notes to prepare the necessary authorizing documents, and related closing documents for the issuance of the Notes and, if appropriate, rendering its approving legal opinion to the Government in connection therewith. The Mayor, the Village Administrator and the Village Fiscal Officer, and any of them, are hereby authorized, alone or with others, to enter into an agreement with said firm for such services.

SECTION 10. The Village Fiscal Officer is hereby directed to forward a certified copy of this ordinance to the county auditor or fiscal officer of each county in which any portion of the Municipality is located.

SECTION 11. It is found and determined that all formal actions of this village council concerning and relating to the passage of this ordinance were passed in an open meeting of this village council, and that all deliberations of this village council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law, including Section 121.22 of the Ohio Revised Code.

SECTION 12. This ordinance is hereby declared to be an emergency measure for the reason that the public peace, health, safety and welfare of the inhabitants of the Municipality require the immediate issuance of the Notes to support contracts relative to the Project and allow the Municipality and its citizens to receive the public safety and other benefits of the Project at the earliest possible time, and therefore, this ordinance shall take effect immediately upon its passage.

Passed:            *December 30, 2021*

  
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RICHARD COLE, JR., Mayor

ATTEST:   
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MEGAN PITMAN, Fiscal Officer

I, Megan Pitman, Fiscal Officer of the Village of Lakemore, do hereby certify that the foregoing Ordinance No. 1751-2021 was duly adopted by Council at its regular meeting held on December 30, 2021.

  
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MEGAN PITMAN, Fiscal Officer