

Ordinance 13-2017

AN ORDINANCE AUTHORIZING THE VILLAGE OF MINERVA PARK, OHIO (THE 'VILLAGE') TO ISSUE BONDS IN THE AMOUNT OF NOT TO EXCEED \$1,700,000 FOR THE PURPOSE OF FINANCING THE ACQUISITION OF AN OFFICE BUILDING LOCATED AT 2999 EAST DUBLIN-GRANVILLE ROAD, COLUMBUS, OHIO, INCLUDING LAND AND INTERESTS IN LAND, PAYING THE COSTS OF RENOVATING AND IMPROVING THE INTERIOR AND EXTERIOR OF THE BUILDING, FURNISHING AND EQUIPPING THE SAME, INCLUDING SITE IMPROVEMENTS, LANDSCAPING AND ALL APPURTENANCES RELATING THERETO; AUTHORIZING THE NECESSARY DOCUMENTS TO SECURE THE BONDS; AND DECLARING AN EMERGENCY.

WHEREAS, the Fiscal Officer of the council (the "Fiscal Officer") has certified to the council of the Village of Minerva Park, Ohio (the "Council") that the estimated life of the building acquisition and improvements (the "Project") (calculated in accordance with Ohio Revised Code Section 133.20) which are to be financed with the proceeds of the bonds, hereinafter referred to, exceeds five years and the maximum maturity of the bonds is 25 years; and

WHEREAS, it is now deemed necessary to issue and sell bonds in the principal sum of to exceed \$1,700,000, under authority of the general laws of the State of Ohio, and in particular Chapter 133 of the Ohio Revised Code, for the purpose stated in the title of this Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MINERVA PARK, OHIO THAT:

Section 1. It is hereby declared necessary to issue bonds of the Village in the principal sum of not to exceed One Million Seven Hundred Thousand Dollars (\$1,700,000), or such lesser amount as shall be determined by the Fiscal Officer and certified to this Council, which bonds shall be designated as "Village of Minerva Park Building Acquisition and Improvement Bonds, Series 2017 (General Obligation – Limited Tax)," to be issued in a manner (including tax-exempt and/or taxable) as determined by the Fiscal Officer (the "Bonds"), for the purpose described in the title of this Ordinance.

Section 2. The Bonds shall be issued as fully registered bonds in such denominations, but not exceeding the principal amount of Bonds maturing on any one date, shall be numbered R-1 upward, and shall be dated the date determined by the Fiscal Officer, and certified to Council, as set forth in the Certificate of Fiscal Officer provided for in Section 3 below.

Section 3. The Fiscal Officer is hereby authorized and directed to execute on behalf of the Village, and to forward to the Auditor of Franklin County, Ohio, a Certificate of Fiscal Officer Relating to Terms of Bonds (the "Certificate of Fiscal Officer") setting forth the aggregate principal amount of the Bonds and the final terms of the Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this Ordinance, shall be as determined by the Fiscal Officer. The Certificate of Fiscal Officer shall indicate the dated date for the Bonds, the dates on which interest on the Bonds are to be paid (the "Interest Payment Dates"), the purchase price for the Bonds; the maturity schedule for the Bonds, the interest rate for the Bonds (provided that the true interest cost for the Bonds shall not exceed five per centum (5.00%) per annum), the mandatory and optional redemption provisions, if any, whether the Bonds are tax-exempt and/or taxable, and such other terms not inconsistent with this

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Ordinance as the Fiscal Officer shall deem appropriate in his discretion on behalf of this Council.

Section 4. The Bonds shall be issued with interest payable semi-annually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months unless otherwise determined by the Fiscal Officer.

Section 5. The Bonds shall express upon their face the purpose for which they are issued and that they are issued pursuant to this Ordinance, and the Bonds shall be executed by the Mayor and the Fiscal Officer in their official capacities, provided that one or both of their signatures may be a facsimile. No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on each of the Bonds, is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bonds so authenticated have been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the Fiscal Officer on behalf of the Village. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Bonds.

Section 7. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Bonds shall be payable upon presentation and surrender of the Bonds at the principal office of the Bond Registrar. The Bonds shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of the Bonds is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on the Bonds shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the Record Date shall be the preceding business day), on the Bond Register at the address appearing therein.

Any interest on the Bonds which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to the Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date.

Section 8. The Fiscal Officer is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Bonds (collectively, the "Bond Registrar") or to execute on behalf of the Village a bond registrar agreement (the "Bond Registrar Agreement") with such bank or other appropriate financial institution as shall be acceptable to the Fiscal Officer and the Original Purchaser, pursuant to which such bank or financial

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institution shall agree to serve as Bond Registrar for the Bonds. The terms of such Bond Registrar Agreement, if any, shall be consistent with the terms of this Ordinance. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the Fiscal Officer in such officer's discretion shall determine that it would be in the best interest of the Village for such functions to be performed by another party, the Fiscal Officer may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all Bondholders of the change in identity and new address of the Bond Registrar. So long as the Bonds remain outstanding, the Village shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bond as provided in this Section (the "Bond Register"). Subject to the provisions hereof, the person in whose name the Bonds shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on the Bond shall be made only to or upon the order of that person. Neither the Village nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

The Bonds, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for a Bond of the same form and denomination equal to the unmatured principal amount of the Bond surrendered, and bearing interest at the same rate and maturing on the same date.

The Bonds may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond in the denomination equal to the unmatured principal amount of the Bond surrendered, and bearing interest at the same rate and maturing on the same date.

The Village and the Bond Registrar shall not be required to transfer or exchange the Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of the Bond, and ending at the close of business on the day of such mailing.

In all cases in which the Bond is exchanged or transferred hereunder, the Village shall cause to be executed and the Bond Registrar shall authenticate and deliver the Bond in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Village and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Village or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Bonds. The Bond issued upon any transfer or exchange shall be the valid obligations of the Village, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Bond surrendered upon that transfer or exchange.

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Section 9. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Bonds may be transferred only through a book entry and (ii) physical Bonds in fully registered form are issued only to the Depository or its nominee as registered owner, with the Bonds “immobilized” to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Bonds.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of Bonds, and to effect transfers of Bonds, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

All or any portion of the Bonds may be initially issued to a Depository for use in a book-entry system, and the provisions of this section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Bond of each maturity; (ii) those Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Bonds in book-entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Bonds 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 this Council. Payment of principal of and interest on Bonds in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each interest payment date, and (ii) in all other cases, upon presentation and surrender of Bonds as provided in this Ordinance.

The Bond Registrar may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of any Bond in the custody of a Depository providing for making all payments to that owner of principal of and interest on that Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this Ordinance, without prior presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Bond Registrar and this Council. That payment in any event shall be made to the person who is the registered owner of that Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar shall furnish a copy of each of those agreements, certified to be correct by the Bond Registrar, to other paying agents for Bonds and to the Village. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

The Mayor, Fiscal Officer, Clerk of Council, and any other officer of this Council, are each authorized to execute, acknowledge and deliver, if necessary, in the name of and on behalf of the Village, the letter agreement among the Village, the Bond Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Bonds to the Depository for use in a book-entry system.

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If any Depository determines not to continue to act as a Depository for the Bonds for use in a book-entry system, the Village and the Bond Registrar may attempt to establish a securities depository/book-entry relationship with another qualified Depository under this Ordinance. If the Village and the Bond Registrar do not or are unable to do so, the Village and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then-acting Depository, shall permit withdrawal of the Bonds from the then-acting Depository, and authenticate and deliver Bond certificates in fully registered form to the successor, assign or nominee of the then-acting Depository, all at the cost and expense (including costs of printing definitive Bonds), if the event is not the result of action or inaction by the Village or the Bond Registrar, of those persons requesting such issuance.

Section 10. There shall be and is hereby levied annually on all the taxable property in the Village, in addition to all other taxes and inside the ten mill limitation, a direct tax (the “Debt Service Levy”) for each year during which any of the Bonds are outstanding for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 11. The Debt Service Levy 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 such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the Village determines that funds will be available from other sources for the payment of the Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Village shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 12. The Village hereby covenants, subject and pursuant to such authority, particularly Ohio Revised Code Section 133.05(B)(7) to appropriate annually from lawfully available municipal income taxes the amounts necessary to meet the annual debt charges on the Bonds if it is determined by the Fiscal Officer that Bonds or any portion thereof are to be tax-exempt.

Section 13. The Bonds shall be sold at private sale to such purchaser or purchasers (referred to herein as the “Original Purchaser”) as the Fiscal Officer determines is in the best interest of the Village and certified to this Council at a purchase price of not less than 97% of the face value of the Bonds, plus interest accrued, if any, to the date of delivery of the Bonds. The Fiscal Officer is authorized and directed to execute on behalf of the Council a Bond Purchase Agreement with the Original Purchaser, if required, setting forth the conditions under which the Bonds are to be sold and delivered, which agreement shall be in such form, not inconsistent with the terms of this Ordinance, as the Fiscal Officer shall determine.

The proceeds from the sale of the Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose. Any accrued interest or premium received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Bonds, or other obligations of the Village, as permitted by law.

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Section 14. The Council hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the tax-exempt portion of the Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Bonds so that the Bonds will not constitute “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986, as -amended (the “Code”). The Council further covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the “Regulations”).

The Fiscal Officer, or any other officer of this Council, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Council with respect to the Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Fiscal Officer, which action shall be in writing and signed by the Fiscal Officer, or any other officer of the Council, on behalf of the Council; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the Village, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds; and (c) to give an appropriate certificate on behalf of the Council, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Council pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Council regarding compliance by the Council with Sections 141 through 150 of the Code and the Regulations.

The Fiscal Officer shall keep and maintain adequate records pertaining to investment of all proceeds of the Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the Village to comply with any federal law or regulation now or hereafter having applicability to the Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the Village to rebate arbitrage profits to the United States Department of the Treasury. The Fiscal Officer is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Bonds requires any such reports or rebates.

Section 15. For the benefit of the owners and beneficial owners from time to time of the Bonds, the Village agrees, as the only obligated person with respect to the Bonds under Rule 15c2-12 prescribed by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (the "Rule"), to provide or cause to be provided such financial information and operating data, audited financial statements and notices, in such manner, as may be required for purposes of the Rule.

The Fiscal Officer is authorized and directed to complete, sign and deliver, in the name and on behalf of the Village, a Continuing Disclosure Certificate, if required, with such changes that are not inconsistent with this Ordinance, are not materially adverse to the Village, and

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are approved by the Fiscal Officer, all of which shall be conclusively evidence by the signing of the Continuing Disclosure Certificate by the Fiscal Officer.

The Fiscal Officer is further authorized and directed to establish procedures in order to ensure compliance by the Village with the Continuing Disclosure Certificate, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Fiscal Officer shall consult with and obtain legal advice from, as appropriate, the Village's general counsel and bond or other qualified independent special counsel selected by the Village. The Fiscal Officer, acting in the name and on behalf of the Village, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the Village of the Continuing Disclosure Certificate shall be subject to the annual appropriation of any funds that may be necessary to perform it.

Section 16. The law firm of Frost Brown Todd LLC is hereby appointed to serve as bond counsel to the Village in connection with the issuance of the Bonds.

Section 17. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the Village to issue the Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Fiscal Officer, and such certified copies and certificates shall be deemed representations of the Village as to the facts stated therein.

Section 18. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds in order to make them legal, valid and binding obligations of the Village have happened, been done and been performed in regular and due form as required by law; that the full faith, credit and revenue of the Village are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Bonds.

Section 19. It is hereby found and determined that all formal actions of the Council concerning and relating to the passage of this Ordinance were taken in an open meeting of the Council, and that all deliberations of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 20. The Fiscal Officer is hereby directed to forward a certified copy of this Ordinance and a copy of the Certificate of Fiscal Officer, as soon as each is available, to the Auditor of Franklin County, Ohio.

Section 21. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Village and its inhabitants for the reason that the Village is entering into a contract for the purchase of an office building and it is in the best financial interest of the Village to meet the conditions and requirements necessary to complete such purchase; wherefore, this Ordinance shall take effect and be in force from and immediately after its passage by the Council.

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First Reading:
Second Reading:
Third Reading:
Passed:

ATTESTS:

Kim Pulley, Fiscal Officer

Lynn Eisentrout, Mayor

APPROVED AS TO FORM:

Eugene L. Hollins, Solicitor

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CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____-2017 duly adopted by the Council of the Village of Minerva Park, Ohio on June __, 2017 and that a true copy thereof was certified to the County Auditor of Franklin County, Ohio.

Clerk of Council
Village of Minerva Park, Ohio