

**VILLAGE OF NEW CONCORD, OHIO**

**ORDINANCE NO. F-10-13-2**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE/PURCHASE AGREEMENT AND SEPARATE LEASE SCHEDULES WITH RESPECT TO THE ACQUISITION, PURCHASE, LEASING AND FINANCING OF CERTAIN EQUIPMENT, AND MATTERS RELATED THERETO, AND DECLARING AN EMERGENCY

WHEREAS, this Village Council (the "Village Council") of the Village of New Concord, Ohio (the "Lessee") has heretofore determined the necessity of acquiring a new police cruiser (the "2013 Project") for use by the Lessee; and

WHEREAS, this Village Council has determined that the 2013 Project is being undertaken for the benefit of the health, safety and welfare of the residents of the Lessee and that the Lessee has followed the procedures prescribed by law for the acquisition of said Project; and

WHEREAS, in order to provide for the acquisition, purchase, leasing and financing of the 2013 Project, and to provide a master lease structure which may be utilized by the Village to finance additional capital improvements in the future, this Village Council has determined it to be necessary and appropriate for the Lessee to enter into a master lease/purchase financing arrangement with Century National Bank, Division of The Park National Bank (the "Bank"), in accordance with the provisions of Article XVIII of the Constitution of the State of Ohio and to the extent applicable, Title VII of the Ohio Revised Code and particularly, Chapter 715 and Section 731.47 thereof (collectively, the "Act") and the Bank's proposal dated October 1, 2013 (the "Proposal") upon the terms set forth herein;

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of New Concord, Ohio, that:

SECTION 1. It is hereby determined to be necessary and expedient, and in the best interests of the Lessee and its citizens, for the Lessee to acquire, purchase, lease and finance the 2013 Project in accordance with the Proposal and the Act.

SECTION 2. If required by the Bank, the Lessee shall assign to the Bank, by an appropriate instrument (an "Assignment Instrument"), all or a portion of the Lessee's rights to, and interests in, the 2013 Project and any contracts relating to the acquisition, or equipping of the 2013 Project. The Village Fiscal Officer and the Village Administrator are hereby separately and individually authorized, alone or with others, to execute and deliver the Assignment Instrument on behalf of the Lessee in such form as the official executing the same may approve; the approval of such form shall be conclusively evidenced by the execution of such instruments by such official.

SECTION 3. The Lessee shall lease the 2013 Project from the Bank pursuant to a Master Lease-Purchase Agreement and Individual Payment Schedule No. 1 (the "2013 Lease Schedule") to be attached thereto (together with all exhibits and appendices thereto and any future Lease Schedules relating to the financing of additional capital improvements, the "Lease") dated as determined by the Village Fiscal Officer or Village Administrator, in substantially the forms presently on file with this Village Council, which is hereby approved. The Village Fiscal Officer, Village Administrator or Village Solicitor are hereby separately and individually authorized, alone or with others, to execute and deliver the Lease on behalf of the Lessee with such changes not substantially adverse to the Lessee as the official executing the same may approve; the approval of such changes and that the same are not substantially adverse to the Lessee shall be conclusively evidenced by the execution of the Lease by such official. The Lease shall provide, among other things, for the payment of rental payments by the Lessee in periodic installments over the term set forth in the 2013 Lease Schedule, in such amounts and at such times as shall be determined by the Village Fiscal Officer or Village Administrator and set forth in the Lease, provided that the actual scheduled rental payments shall not exceed in any year the amounts that would be required if the applicable interest rate were two and sixty-five hundredths percent (2.65%) per annum applied on a principal amount of \$28,490.00 . The initial term of the portion of the Lease evidenced by the 2013 Lease Schedule shall be until December 31, 2013, provided that the Lessee shall have the right to renew for additional renewal terms, beginning on January 1, 2014 and continuing on January 1 of each year thereafter through and including the last renewal term which shall end not later than December 31, 2018. Each renewal term shall be for one (1) year except that the final renewal term may be for less than one (1) year. The Lease shall provide for termination in the event this Village Council fails to appropriate funds adequate to pay rent due with respect to any renewal term.

SECTION 4. Village Fiscal Officer, Village Administrator or Village Solicitor and other appropriate officers of the Lessee, or any of them, are hereby separately and individually authorized and directed to make the necessary arrangements with the Bank to establish the date, location, procedure and conditions for executing and delivering any Assignment Instrument and the Lease, and delivering the same to, the Bank, to give all appropriate notices and execute and deliver, on behalf of the Lessee, such additional instruments, documents, agreements, certificates, and other papers as may be in their discretion necessary or appropriate in order to carry out, give effect to and consummate the transaction contemplated thereby in such forms as the official executing the same may approve, and to take all other steps necessary or appropriate to effect the due execution, delivery and performance of any Assignment Instrument and the Lease pursuant to the provisions of this ordinance. The Village Fiscal Officer shall, if requested by the Bank, furnish to the Bank a true transcript of proceedings pertaining to the Lease containing such information from the records of the Lessee as is necessary to evidence or determine the regularity and validity of the authorization, execution and delivery of the Lease. The Village Fiscal Officer and Village Administrator are each hereby separately and individually designated to act as the authorized representative of the Lessee for purposes of the Lease until such time as this Village Council shall designate any other or different authorized representatives for such purpose.

SECTION 5. The Lessee agrees to execute and perform any Assignment Instrument and the Lease in accordance with the terms thereof, and to comply with the terms and conditions of such additional documents and agreements relating thereto as shall be deemed, by the Village

Fiscal Officer, Village Administrator or Village Solicitor, or any of them, in their discretion, necessary or appropriate in connection with the financing described herein.

SECTION 6. Any Assignment Instrument and the Lease shall constitute special obligations of the Lessee. Nothing in any Assignment Instrument, the Lease or any agreements or documents relating thereto shall constitute or be construed or deemed to constitute a debt, bonded indebtedness or a general obligation of Lessee. Neither the taxing power nor the full faith and credit of the Lessee are pledged or shall be pledged for the payment or security of any Assignment Instrument, the Lease, or any other related agreement or document.

SECTION 7. It is hereby determined that the terms of any Assignment Instrument and the Lease, all as provided therein and in this ordinance, are desirable, expedient and in the best interest of the Lessee, and in compliance with all legal requirements. If any section, paragraph, clause or provision of this ordinance, any Assignment Instrument or the Lease shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any remaining provisions of this ordinance, any Assignment Instrument or the Lease, respectively. Any provisions of any ordinance or resolution inconsistent with this ordinance are hereby repealed, but only to the extent of such inconsistency; this provision shall not be construed as reviving any ordinance or resolution or any part thereof.

SECTION 8. The proceeds of the Lease, to the extent the same are available for the payment of costs of the 2013 Project and in any case a sum not to exceed \$28,490.00, are hereby appropriated to be used for the payment of such costs and related costs, including financing costs. The 2013 Lease Schedule will provide that there will be no lease payments due or coming due under the Lease for the initial term ending December 31, 2013; therefore, no appropriation to pay lease payments during 2013 is required.

SECTION 9. Peck, Shaffer & Williams, LLP, attorneys of Columbus, Ohio, are hereby retained as special counsel to the Lessee to prepare the necessary authorizing documents, including the Lease, and related closing documents and, if appropriate, render its approving legal opinion to the Bank in connection therewith.

SECTION 10. This Village Council hereby covenants that it will restrict the use of the proceeds of the portion of the Lease evidenced by the 2013 Lease Schedule in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the 2013 Lease Schedule is entered into, so that the interest portion of the rental payments required by the 2013 Lease Schedule will not be subject to federal income taxation and such portion of the Lease will not constitute an "arbitrage bond" under Sections 103(b)(21) 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. Without limiting the generally of the foregoing, this Village Council represents and covenants that not more than 10% of the 2013 Project shall be used directly or indirectly in the trade or business of any person that is not an "exempt person" within the meaning of the Code. The Village Fiscal Officer or any other officer having responsibility with respect to the execution and delivery of the Lease is authorized and directed to give an appropriate certificate on behalf of the Lessee on the date of delivery of the 2013 Lease Schedule for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable

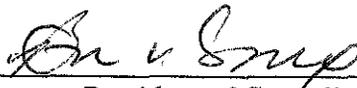
expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

The 2013 Lease Schedule is hereby designated as a "qualified tax-exempt obligation" to the extent permitted by Section 265(b) of the Code. This Village Council finds and determines that the reasonably anticipated amount of tax-exempt obligations (whether or not designated as qualified) issued and to be issued by the Lessee during calendar year 2013 including the 2013 Lease Schedule does not, and this Village Council hereby covenants that, during such year, the amount of tax-exempt obligations issued by the Lessee and designated as "qualified tax-exempt obligations" for such purpose will not, exceed \$10,000,000.

SECTION 11. It is found and determined that all formal actions of this Village Council concerning and relating to the adoption of this ordinance were adopted 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 Revised Code of Ohio.

SECTION 12. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the general safety, health, and welfare of the Lessee and its citizens for the reason that the immediate effectiveness of this ordinance is necessary to ensure the orderly financing of the 2013 Project and to obtain favorable terms for the financing of the 2013 Project in a fluctuating interest rate market. Therefore, this ordinance shall take effect and be in force immediately upon its passage by this Village Council and approval by the Mayor.

PASSED: October 14, 2013.

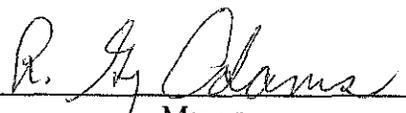
  
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President of Council

Attest:   
\_\_\_\_\_  
Village Fiscal Officer

SUBMITTED to the Mayor this 14<sup>th</sup> day of October, 2013.

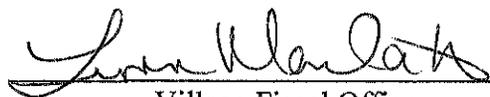
  
\_\_\_\_\_  
Village Fiscal Officer

APPROVED by the Mayor this 14<sup>th</sup> day of October, 2013.

  
\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, the undersigned Village Fiscal Officer of the Village of New Concord, Ohio, hereby certify that the foregoing is a true copy of Ordinance No. F-10-13-2 passed by such Village Council at a meeting held on October 14, 2013.

  
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Village Fiscal Officer