

VILLAGE OF NEW CONCORD, OHIO

ORDINANCE NO. H-6-02-1

AN ORDINANCE PROVIDING FOR THE ISSUANCE  
OF \$132,000 SEWAGE TREATMENT PLANT  
IMPROVEMENT BONDS AND DECLARING AN  
EMERGENCY

WHEREAS, the Village of New Concord, Ohio (the "Municipality") intends to construct and acquire certain improvements for the Municipality's sewage treatment plant; and

WHEREAS, said improvements shall be paid in part with the proposed issue of \$132,000 Sewage Treatment Plant Improvement Bonds.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality, County of Muskingum, Ohio, two-thirds of the members elected thereto concurring:

SECTION 1. That it is necessary to issue bonds of the Municipality in a principal amount of \$132,000 (the "Bonds") for the purpose of paying a portion of the cost of improvements to the Municipality's sewage treatment plant, together with all necessary appurtenances (the "Project").

SECTION 2. That the Bonds shall be issued in such principal amount for the purpose aforesaid. The Bonds shall be dated July 1, 2002, numbered from R-1 upwards in order of issuance, of the denominations as requested by the holders thereof, provided that each Bond shall be of a single maturity, and shall bear interest at a rate of FOUR AND FORTY-FIVE HUNDRETHS per cent (4/45%) per annum, payable on July 1, in each of the years 2003 and 2004, until the principal sum is paid. The Bonds shall mature on July 1, in each year and in the principal amounts as follows:

<u>Year</u> <u>(July 1)</u>	<u>Principal Amount</u>
2003	\$66,000
2004	66,000

The Bonds are not subject to pre-payment prior to maturity without the consent of the holder thereof.

The Bonds shall be designated "Sewage Treatment Plant Improvement Bonds".

It is determined by the Council that the issuance of the Bonds as provided herein will be in the best interest of the Municipality. The last maturity of the Bonds (July 1, 2004) is not later than the year of last maturity permitted by law.

SECTION 3. That the Bonds shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this ordinance. The Bonds shall be in fully registered form and shall bear the signatures of the Mayor and Clerk, provided that either or both of such signatures may be facsimile signatures, and shall bear the manual authenticating signature of an authorized officer of the Paying Agent and Registrar as identified on the Bonds. The principal amount of each Bond shall be payable at the principal office of the Paying Agent and Registrar and interest thereon shall be made on each interest payment date to the person whose name appears on the record date (June 1) on the Bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his address as it appears on such registration records.

The Bonds shall be transferable by the registered holder thereof in person or by his 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 Bond during the 15-day period preceding any interest payment date, 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 Bond or Bonds of authorized denominations of the same maturity and for the same aggregate 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 Bonds 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. That the Bonds shall be sold to CENTURY NATIONAL BANK, NEW CONCORD, Ohio, for no less than the par amount thereof. The proceeds from such sale, except any premium or accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose, and for which purpose said proceeds are hereby appropriated. Any premium and accrued interest shall be transferred to the bond retirement fund to be applied to the payment of principal and interest of the Bonds in the manner provided by law.

SECTION 5. That the Bonds shall be the full general obligations of the Municipality and the full faith, credit and revenue of the Municipality are hereby pledged for the prompt payment of the same. Any excess fund resulting from the issuance of the Bonds, shall to the extent necessary be used only for the retirement of the Bonds at maturity, together with interest thereon and is hereby pledged for such purpose.

SECTION 6. That during the period which the Bonds run, there shall be levied upon all of the taxable property in the Municipality, in addition to all other taxes, a direct tax annually within the limitations of Section 2 of Article XII of the Constitution of Ohio, in an amount sufficient to pay the principal of and interest on the Bonds when and as the same fall due. Said tax 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. Said tax shall be placed before and in preference to all other items and for the full amount thereof.

The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund and, together with interest collected on the same, shall be irrevocably pledged for the payment of the principal and interest of the Bonds, when and as the same fall due. However, in each year to the extent that other revenues of the Municipality is available for the payment of the principal of and interest on the Bonds and is properly appropriated for that purpose, including sewer system revenues, the amount of the tax shall be reduced accordingly.

SECTION 7. That this Council hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized in such manner and to such extent, if any, and take such other actions 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, and will, to the extent possible, comply with all other applicable provisions of the Code and the regulations thereunder in order to retain the Federal income tax exemption for interest on the Bonds. The Clerk or any other officer having responsibility with respect to the issuance of the Bonds is authorized and directed to give an appropriate certificate on behalf of the Municipality on the date of delivery of the Bonds 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 the Code and the regulations thereunder.

SECTION 8. That the Bonds are hereby designated as "qualified tax-exempt obligations" to the extent permitted by Section 265(b) of the Code. This 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 Municipality during the calendar year in which the Bonds are issued (2002), including the Bonds does not, and this Council hereby covenants that, during such year, the amount of tax-exempt obligations issued by this Municipality and designated as "qualified tax-exempt obligations" for such purpose will not, exceed \$10,000,000. The Clerk of the Municipality 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 the tax-exempt obligations to be issued by the Municipality during this calendar year and with respect to such other matters as appropriate under the Code.

SECTION 9. That the Clerk is hereby directed to forward a certified copy of this ordinance to the County Auditor.

SECTION 10. That it is hereby determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds in order to make the same legal, valid and binding obligations of the Municipality have happened, been done and

performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said Bonds.

SECTION 11. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in open meetings of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were taken in meetings open to the public, in compliance with the law.

SECTION 12. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the Municipality for the reason that the immediate issuance of said Bonds is required for the orderly construction and requisition of the improvement referred to herein, and it shall take effect immediately upon its passage and approval by the Mayor.

PASSED IN COUNCIL, this 10 day of June, 2002.

  
Presiding Officer  
R. GREGORY ADAMS, MAYOR

ATTEST:

  
Clerk SUE WILSON

19094v1

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of Ordinance No. H-6-02-1.

C. Sue Wilson

Village Clerk  
Village of New Concord

CERTIFICATE

The undersigned hereby certifies that a copy of the foregoing ordinance was certified this day to the county auditor.

C. Sue Wilson

Village Clerk  
Village of New Concord

Dated: June \_\_, 2002

RECEIPT

The undersigned hereby acknowledges receipt of a certified copy of the foregoing ordinance.

\_\_\_\_\_  
County Auditor, Muskingum County

Dated: June \_\_, 2002

19094v1

EXTRACT FROM MINUTES OF MEETING

The Council of the Village of New Concord, Ohio, met in regular session on the 10th day of June, 2002, with the following members present:

There was presented and read to Council Ordinance No. H-6-02-1 entitled:

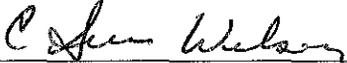
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GATES moved to suspend the rule requiring an ordinance or resolution to be read on three different days. KRUZAN seconded the motion and, the roll being called upon the question, the vote resulted as follows:

KRUZAN moved that the above-captioned ordinance be passed as an emergency measure. GATES seconded the motion, and the following was a result of a vote thereon:

CERTIFICATE

The undersigned hereby certifies that the foregoing extract from the minutes is a true and correct copy.

  
\_\_\_\_\_  
Village Clerk  
Village of New Concord, Ohio

