

ORDINANCE NO. 98-22

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$372,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY COSTS OF, IN COOPERATION WITH THE CONNEAUT PORT AUTHORITY, (A) A PORTION OF THE DEBT SERVICE ASSOCIATED WITH ACQUIRING, CONSTRUCTING, RECONSTRUCTING, AND IMPROVING BOAT DOCKS AND SLIPS, TOGETHER WITH ALL NECESSARY APPURTENANCES, COMPRISING A PART OF A PUBLIC MARINA, (B) THE COSTS OF ENGINEERING AND DESIGN OF A TRANSIENT MARINA, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND (C) THE COSTS OF THE CONSTRUCTION OF SELF-STORAGE UNITS ON DAY STREET WHICH WILL BE OPEN TO THE PUBLIC, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has been asked by the Conneaut Port Authority (the Port Authority) to consider assisting in the funding of the costs of (a) a portion of the debt service associated with acquiring, constructing, reconstructing, and improving boat docks and slips, together with all necessary appurtenances, comprising a part of a public marina, (b) engineering and design of a transient marina, together with all necessary appurtenances, and (c) the construction of self-storage units on Day Street which will be open to the public, together with all necessary appurtenances; and

WHEREAS, the City has assisted in such project, and the Port Authority agreed to pay to the City certain License Fees as defined in and pursuant to the terms of the Cooperative Agreement and the Fourth Addendum thereto, as amended; and

WHEREAS, pursuant to an Ordinance passed on December 13, 2021, a note in anticipation of bonds in the amount of \$406,000, dated December 22, 2021, was issued to mature on December 21, 2022 (the Outstanding Note); and

WHEREAS, this Council now finds and determines that the City should retire a portion of the Outstanding Note with the proceeds of the Notes described in Section 3 hereof; and

WHEREAS, the Director of Finance as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of each improvement described in Section 1 is at least five years, the estimated maximum maturity of the bonds described in Section 1 as Improvement 1 is 15 years, Improvements 2 and 3 is 10 years, and the maximum maturity of the notes described in Section 3 as Improvement 1, to be issued in anticipation of the bonds, is December 31, 2031, and for Improvements 2 and 3 is December 31, 2035;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Conneaut, Ohio, Ashtabula County, Ohio, that:

SECTION 1. It is necessary to issue bonds of this City in the aggregate principal amount of \$372,000 (the Bonds) for the purpose of providing funds, in cooperation with the Port Authority, to

pay costs of (a) a portion of the debt service associated with acquiring, constructing, reconstructing, and improving boat docks and slips, together with all necessary appurtenances, comprising a part of a public marina (Improvement 1), (b) engineering and design of a transient marina, together with all necessary appurtenances (Improvement 2), and (c) the construction of self-storage units on Day Street which will be open to the public, together with all necessary appurtenances (Improvement 3, and together with Improvement 1 and Improvement 2, the Improvement).

SECTION 2. The Bonds shall be dated approximately December 1, 2023, shall bear interest at the now estimated rate of 7.50% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments that are substantially equal. The first principal payment is estimated to be December 1, 2024. The first interest payment is estimated to be June 1, 2024.

SECTION 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$372,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and, together with other funds available to the City, to retire the Outstanding Note. The Notes shall bear interest at a rate or rates not to exceed 7.00% per year (computed on a 360-day per year basis), payable at maturity and until the principal amount is paid or payment is provided for. If requested by the original purchaser, the Notes may provide that, in the event the City does not pay or make provision for payment at maturity of the debt charges on the Notes, the principal amount of the Notes shall bear interest at a different rate or rates not to exceed 9% per year from the maturity date until the City pays or makes provision to pay that principal amount. The rate or rates of interest on the Notes shall be determined by the Director of Finance in the certificate awarding the Notes in accordance with Section 6 of this ordinance.

SECTION 4. The debt charges on the Notes shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America if so requested by the original purchaser, and shall be payable, without deduction for services of the City's paying agent, at the main office of The Huntington National Bank, or at the principal office of a bank or trust company requested by the original purchaser of the Notes, provided that such request shall be approved by the Director of Finance after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose (the Paying Agent). The Notes shall be dated the date of issuance and shall mature one year from that date, provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, select a maturity date that is up to thirty days less than one year from the date of issuance by setting forth that maturity date in the certificate of award. If agreed to by the original purchaser, the Notes shall be prepayable without penalty or premium at the option of the City at any time prior to maturity as provided in this ordinance. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the date of prepayment. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the date of prepayment and the name and address of the Paying Agent, by certified or registered mail to the original purchaser of the Notes not less than seven days prior to the date of that deposit, unless that notice is waived by the original purchaser of the Notes. If money for prepayment is on deposit with the Paying Agent on the specified prepayment date following the giving of that notice (unless the

requirement of that notice is waived as stated above), interest on the principal amount prepaid shall cease to accrue on the prepayment date, and upon the request of the Director of Finance, the original purchaser of the Notes shall arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment and surrender and cancellation.

SECTION 5. The Notes shall be signed by the City Manager or the President of Council and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the original purchaser and approved by the Director of Finance, provided that the entire principal amount may be represented by a single note. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance. If determined by the Director of Finance to be advantageous to the City, the Notes may be issued in book-entry form and the City may enter into an agreement with the depository for purpose of using the book-entry system.

SECTION 6. The Notes shall be and hereby are awarded and sold at private sale at a price of not less than par. The Director of Finance shall determine the rate or rates of interest payable on the Notes and shall sign the Certificate of Award evidencing that rate and any other terms herein authorized, 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 City Manager, the President of Council, the Director of Law, the Director of Finance, the Clerk of Council, and other City officials, as appropriate, are each 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 effect the issuance of the Notes as contemplated by this Ordinance. The Director of Finance is 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 Revised Code.

SECTION 7. 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. 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. 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. In each year, to the extent the income from the amounts payable by the Port Authority to the City as License Fees as defined in and pursuant to the terms of the Cooperative Agreement and the Addendum thereto, as amended, is available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of income so available and appropriated.

SECTION 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest on the Notes will not be treated as an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

Each covenant made in this section with respect to the Notes is also made with respect to all issues, any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Notes.

SECTION 11. The Clerk of Council is directed to deliver a certified copy of this ordinance to the County Auditor.

SECTION 12. 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 10) 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 13. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 14. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this ordinance is required to be immediately effective in order to sell the Notes, to retire the outstanding notes and thus preserve the credit of the City, this ordinance shall be in full force and effect immediately upon its passage.

Passed this 12th day of December, 2022.

Joe J. Aron
President of Council

ATTEST:

Pamela O'Connell
Clerk of Council

I, Pamela O'Connell, Clerk of the Council of the City of Conneaut, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. No. 98-22 passed on the 12th day of December 2022 by said Council.
Pamela O'Connell
Clerk of Council 12-12-22

SUPPLEMENTAL FISCAL OFFICER'S CERTIFICATE

To the Council of the City of Conneaut, Ohio:


As fiscal officer of the City of Conneaut, I certify in connection with your proposed issue of \$372,000 notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds) for the purpose of providing funds, in cooperation with the Port Authority, to pay costs of (a) a portion of the debt service associated with acquiring, constructing, reconstructing, and improving boat docks and slips, together with all necessary appurtenances, comprising a part of a public marina (Improvement 1), (b) engineering and design of a transient marina, together with all necessary appurtenances (Improvement 2), and (c) the construction of self-storage units on Day Street which will be open to the public, together with all necessary appurtenances (Improvement 3, and together with Improvement 1 and Improvement 2, the Improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years;

2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 15 years for Improvement 1 and 10 years for Improvements 2 and 3, being my estimate of the life or period of usefulness of those improvements. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes for such improvement, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.

3. The maximum maturity of the Notes for Improvement 1 is December 31, 2032, being the last day of the 20th year from the date of the original issue of notes issued for this purpose. The maximum maturity of the Notes for Improvements 2 and 3 is the last day of the 15th year from the date of the original issue of notes issued for this purpose.

Dated: 12-12, 2022



Director of Finance
City of Conneaut, Ohio